



1995 SENATE BILL 624

March 14, 1996 - Introduced by Senators PANZER, C. POTTER and HUELSMAN,
cosponsored by Representative LADWIG. Referred to Committee on Judiciary.

1 **AN ACT to repeal** 48.396 (1m), 304.06 (1z), 938.18 (2r) and 938.38 (5m); **to**
2 **renumber** 15.197 (23) (title), 15.197 (23) (a) 1., 2., 3., 4., 5., 6. and 7., 15.197 (23)
3 (a) 9., 15.197 (23) (a) 10. and (b), 48.396 (1g) and 938.355 (6) (an); **to renumber**
4 **and amend** 15.197 (23) (a) (intro.), 15.197 (23) (a) 8., 48.983, 118.127 (3),
5 938.183 (1m) and 938.51 (4); **to amend** 46.215 (1m), 46.22 (1) (dm), 46.23 (3)
6 (e), 48.023 (4), 48.396 (2) (am), 48.66 (1), 48.78 (2) (ag), 48.78 (2) (am), 51.42 (3)
7 (e), 103.70 (1), 111.35 (2) (d), 118.125 (1) (a), 118.125 (2) (e), 118.125 (3), 118.125
8 (5) (b), 118.127 (title), 118.127 (1), 118.127 (2), 118.127 (3), 118.163 (2) (intro.),
9 118.163 (2) (a), 118.163 (2) (b), 118.163 (2) (c), 118.163 (2) (d), 118.163 (2) (e),
10 118.163 (2) (f), 118.163 (2m), 134.66 (2) (a), 134.66 (2) (b), 146.81 (5), 301.26 (4)
11 (cm) 1., 304.06 (1) (b), 778.25 (1) (a) 4., 895.035 (2m) (a), 895.034 (2m) (b), 938.02
12 (15m), 938.02 (19), 938.02 (20), 938.065 (3) (f), 938.08 (3), 938.18 (7), 938.183
13 (1) (a), 938.183 (1) (b), 938.185 (1) (c), 938.208 (1) (intro.), 938.209 (3), 938.24
14 (5), 938.245 (2) (a) 5. b., 938.245 (2g), 938.245 (4), 938.245 (5), 938.245 (7) (a),
15 938.25 (2) (a), 938.25 (2) (b), 938.29 (1g), 938.299 (1) (ar), 938.299 (1) (b), 938.315
16 (3), 938.32 (1t) (a) 2., 938.34 (4h) (a), 938.34 (5) (b), 938.34 (5g) (c), 938.34 (8),
17 938.34 (16), 938.342, 938.343 (2), 938.355 (4), 938.355 (6) (title) and (a), 938.355

1 (6) (d) (intro.), 938.355 (6m) (a), 938.357 (1), 938.357 (3), 938.357 (4) (a), 938.365
2 (6), 938.371, 938.396 (2) (am), 938.396 (2m) (a), 938.396 (7) (c), 938.396 (8),
3 938.51 (2), 938.538 (5) (a), 938.59 (1), 938.595, 938.78 (2) (ag), 938.78 (2) (am),
4 938.78 (2) (d) (intro.), 946.42 (3) (c), 946.44 (2) (c), 946.44 (2) (d), 946.45 (2) (c),
5 946.45 (2) (d) and 970.032 (2) (intro.); **to repeal and recreate** 48.396 (1),
6 118.125 (2) (d), 938.357 (4) (b) and (c) and 946.42 (1) (a); and **to create** 15.147
7 (title), 48.396 (1d), 51.437 (4r) (b), 103.67 (2) (j), 301.08 (1) (b) 3., 938.02 (19r),
8 938.028, 938.17 (2) (h) 4., 938.18 (2m), 938.183 (1m) (a), 938.183 (1m) (c),
9 938.208 (6), 938.299 (1) (av), 938.315 (1) (dm), 938.34 (4d), 938.355 (6) (an) 2.,
10 938.396 (1m) (am), 938.51 (1) (d), 938.51 (4) (b), 938.539, subchapter XVIII
11 (title) of chapter 938 [precedes 938.795] and subchapter XX (title) of chapter
12 938 [precedes 938.983] of the statutes; **relating to:** juvenile justice and
13 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes various changes relating to the new juvenile justice code (code) that is to go into effect on July 1, 1996. Those changes are as follows:

1. **Dispositions.** The current code provides for various dispositions for a juvenile who has been adjudicated delinquent. Those dispositions include placement in a secured correctional facility (Ethan Allen school or Lincoln Hills school) or a secured child caring institution (CCI) under the supervision of the department of corrections (DOC) if the juvenile has committed an act that would be punishable by a sentence of 6 months or more if committed by an adult and if the juvenile has been found to be a danger to the public and to be in need of restrictive custodial treatment. Those dispositions also include placement in the serious juvenile offender program under the supervision of DOC if the juvenile has committed an act that would be a Class A or Class B felony if committed by an adult and if the only other disposition that would be appropriate for the juvenile would be placement in a secured correctional facility. The current code requires DOC to operate the component phases of the serious juvenile offender program that do not involve placement at Ethan Allen school or Lincoln Hills school as a "Type 2 secured correctional facility". A juvenile placed in a Type 2 secured correctional facility is under the supervision and control of DOC, is subject to the rules and discipline of DOC and is considered to be in custody for purposes of the law against escape.

This bill creates a new disposition, specifically, placement in a Type 2 CCI, as defined in the bill, under the supervision of the county department of human services or social services (county department) and subject to Type 2 status, as described in the bill, if the juvenile has committed an act that would be punishable by a sentence of 6 months or more if committed by an adult and if the juvenile has been found to be a danger to the public and to be in need of restrictive custodial treatment. Under the bill, a "Type 2 CCI" is a CCI that is designated by DOC to provide care and maintenance for juveniles who have been placed under this new disposition. Under the bill, a juvenile who is placed in a Type 2 CCI or who, having been so placed, is replaced in a less restrictive placement, is under the supervision and control of the county department, is subject to the rules and discipline of the county department and is considered to be in custody for purposes of the law against escape.

Under the current code, ordinarily when a party wishes to change the placement of a juvenile, the party must request the court assigned to exercise jurisdiction under the code (juvenile court) to change that placement. The current code, however, permits DOC to change the placement of a juvenile who is under the supervision of DOC without requesting a change in placement from the juvenile court. The current code also permits DOC, on receiving notice from a child welfare agency operating a secured CCI in which a juvenile is placed, to return the juvenile to a secured correctional facility or place the juvenile in a secure detention facility for not more than 30 days, without requesting a change in placement from the juvenile court, if the juvenile violates a condition of his or her placement in the secured CCI. The current code also permits a child welfare agency that is operating a secured CCI to place a juvenile in a less restrictive placement and replace that juvenile in a secured CCI without requesting a change in placement from the juvenile court.

This bill permits DOC, on receiving notice from a child welfare agency operating a Type 2 secured correctional facility in which a juvenile is placed under the supervision of DOC and after consulting with the child welfare agency, to place the juvenile at Ethan Allen school or Lincoln Hills school, without requesting a change in placement from the juvenile court, if the juvenile violates a condition of his or her placement in the Type 2 secured correctional facility. The bill also permits DOC, on receiving notice from a child welfare agency operating a Type 2 CCI in which a juvenile is placed under the supervision of a county department and after consulting with the child welfare agency, to place the juvenile at Ethan Allen school or Lincoln Hills school for not more than 10 days, without requesting a change in placement from the juvenile court, if the juvenile violates a condition of his or her placement in the Type 2 CCI and if the county department having supervision over the juvenile agrees to the change in placement.

The bill also permits DOC, after consulting with the child welfare agency operating the CCI in which DOC has placed a juvenile, to place the juvenile in a less restrictive placement, without requesting a change in placement from the juvenile court, if it appears that a less restrictive placement would be appropriate for the juvenile. Finally, the bill permits the child welfare agency operating a Type 2 CCI in which a juvenile is placed under the supervision of a county department, to place

the juvenile in a less restrictive placement, without requesting a change in placement from the juvenile court, if it appears that a less restrictive placement would be appropriate for the juvenile and if the county department agrees to the less restrictive placement.

Under the current code, a juvenile court, after imposing a disposition on a juvenile, may enter an additional order staying the execution of that disposition contingent on the juvenile's satisfactory compliance with the conditions of the dispositional order. If the juvenile court finds, however, to a reasonable certainty by the greater weight of the credible evidence that the juvenile has violated a condition of his or her dispositional order, the juvenile court may impose the original dispositional order. This bill changes the burden of proof for imposing the original dispositional order to a preponderance of the evidence.

Under the current code, the parole commission may grant a participant in the serious juvenile offender program parole at any time after the participant has completed 2 years of participation in the program. This bill provides instead that the juvenile offender review program in the division of youth corrections in DOC may release a participant in the serious juvenile offender program to aftercare supervision at any time after the participant has completed 2 years of participation in the program.

Under the current code, a juvenile court may impose as a disposition, or a juvenile may agree to under a deferred prosecution agreement or consent decree, restitution for damage to property or actual physical injury to another or participation in a supervised work program. Under current law, however, minors under 14 years of age, subject to certain exceptions, are not permitted to work and the employer of a minor of any age who does work must obtain a work permit for the minor. This bill permits a minor 10 to 13 years of age to participate in a restitution project or in a supervised work program or in other community service work as part of a deferred prosecution agreement, consent decree or dispositional order. The bill also exempts a minor participating in a restitution project or in a supervised work program or in other community service work from the work permit requirement under current law.

Under the current code, the person or agency primarily responsible for implementing a dispositional order; the juvenile; his or her parent, guardian or legal custodian; or any person or agency primarily bound by the dispositional order may request that the juvenile court order a change in placement. This bill permits the district attorney to request a change in placement.

2. ***Jurisdiction and venue.*** Under the current code, a court of criminal jurisdiction (criminal court), rather than a juvenile court, has exclusive original jurisdiction over a juvenile who: 1) has been adjudicated delinquent and is alleged to have committed assault or battery while placed in a secured correctional facility, secured CCI or a secure detention facility; 2) is alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or 2nd-degree intentional homicide on or after the juvenile's 10th birthday; 3) is alleged to have violated any state criminal law if the juvenile has previously been convicted following waiver of juvenile court jurisdiction or if criminal

proceedings are still pending following waiver of juvenile court jurisdiction (once waived/always waived); 4) is alleged to have violated any state criminal law if the juvenile has been convicted of a previous violation over which the criminal court had original jurisdiction or if criminal proceedings on a previous violation over which the criminal court had original jurisdiction are still pending. Under the current code, a juvenile who is under the original jurisdiction of a criminal court is subject to adult criminal procedures and to adult criminal penalties unless the criminal court transfers jurisdiction to the juvenile court (reverse waiver).

This bill provides that, notwithstanding that a juvenile who is under the original jurisdiction of the criminal court is subject to adult criminal procedures and penalties, a juvenile under 15 years of age who is subject to the original jurisdiction of the criminal court may be held in secure custody only in a juvenile secure detention facility or in the juvenile portion of a county jail and, if a juvenile who is subject to the original jurisdiction of the criminal court is convicted of a lesser offense, the criminal court may impose a juvenile disposition rather than an adult criminal penalty.

The bill also provides that, for a juvenile who is once waived/always waived, the previous waiver may be a waiver under the predecessor to the code, that is, the children's code.

Also, the bill provides that the burden of proof in a reverse waiver proceeding is on the juvenile to prove by a preponderance of the evidence that jurisdiction should be transferred to the juvenile court.

Under the current code, if a juvenile absconds and does not appear at his or her waiver hearing, the juvenile court may waive its jurisdiction in the juvenile's absence and the juvenile may contest the waiver when he or she is apprehended. This bill provides that the juvenile may contest the waiver by showing the criminal court good cause for his or her failure to appear. If the criminal court finds good cause for the juvenile's failure to appear, the criminal court must transfer jurisdiction back to the juvenile court for purposes of holding the waiver hearing.

Under the current code, in a waiver proceeding, if it appears that the juvenile may be suitable for participation in the serious juvenile offender program or in the adult intensive sanctions program, the judge must order DOC to submit a report recommending whether the juvenile should be placed in either of those programs. This bill eliminates that requirement and instead permits the juvenile court to designate DOC, the county department or a child welfare agency to submit a report analyzing the criteria on which the juvenile court must base its waiver decision. The bill also permits the juvenile court to rely on facts stated in that report in making its findings with respect to those criteria.

Under the current code, if a juvenile violates a state law, venue for the proceeding is in the county where the violation occurred, except that, after the juvenile is adjudged delinquent, the juvenile court of that county may transfer venue to the juvenile's county of residence for disposition, if the juvenile court of the county of residence agrees to the transfer and the transferring juvenile court agrees to the disposition. This bill applies the same venue law to a violation of a county, town or

municipal ordinance. The bill also eliminates the requirement that the transferring juvenile court agree to the disposition of the juvenile court of the county of residence.

3. ***Juvenile court procedures.*** Under the current code, certain actions, such as referring a case to the district attorney for the filing of a petition, filing a petition and holding fact-finding, dispositional and extension hearings, must take place within certain time limits. If a time limit is not met, the juvenile court may grant a continuance, dismiss the petition with or without prejudice, release the juvenile from secure or nonsecure custody or grant any other relief that the juvenile court considers appropriate. This bill provides that failure to object to a time limit not being met waives that time limit.

Under the current code, certain time periods are excluded in computing time limits under the code. Those time periods include periods of delay resulting from other legal actions concerning the juvenile, from a continuance or from the absence or unavailability of the juvenile. This bill adds to the time periods that are excluded in computing time limits under the code any period of delay resulting from juvenile court congestion or scheduling.

Under the current code, information indicating that a juvenile should be referred to the juvenile court as delinquent, in need of protection or services or in violation of a civil law or municipal ordinance must be referred to the juvenile court intake worker (intake worker) who must conduct an intake inquiry to determine what action should be taken. Currently, an intake worker must recommend that a petition be filed, enter into a deferred prosecution agreement or close the case within 40 days after receipt of the referral. This bill requires the intake worker to request, rather than recommend, that a petition be filed.

Under the current code, if a deferred prosecution agreement is entered into, the juvenile court may terminate the agreement upon the request of the juvenile, parent, guardian or legal custodian. This bill permits a juvenile, parent, guardian or legal custodian to terminate a deferred prosecution agreement, other than a deferred prosecution agreement placing the juvenile in a youth village program, without requesting the juvenile court to do so.

Under the current code, the district attorney, corporation counsel or other appropriate official may refer a case back to the intake worker for further investigation. This bill permits the district attorney, corporation counsel or other appropriate official to refer a case directly back to the law enforcement agency investigating the case.

Under the current code, subject to certain exceptions, the general public is excluded from hearings under the code and the records of the juvenile court are not open to inspection and their contents may not be disclosed. The current code, however, permits the general public to attend a hearing and permits the records of the juvenile court to be open for inspection by a requester if the hearing or records relate to a juvenile who is alleged to be delinquent for committing an act that would be a serious felony for purposes of increased penalties for repeat criminal offenders (3 strikes and you're out), or for abducting another person's child or for conspiracy to commit any violation. This bill eliminates public hearings and open records relating to juveniles who are alleged to be delinquent for committing those violations

and instead provides for public hearings and open records relating to juveniles who are alleged to have committed a delinquent act for which a juvenile may be placed in the serious juvenile offender program, that is, a Class A or Class B felony if committed by an adult. The bill also provides that if a public hearing is held, any person may disclose to anyone any information obtained at the public hearing.

Under the current code, upon the request of the parent, guardian or legal custodian of a juvenile who is the subject of a record of the juvenile court, or upon the request of the juvenile, if 14 years of age or over, the juvenile court must open for inspection by the parent, guardian, legal custodian or juvenile the records of the juvenile court relating to the juvenile, unless the juvenile court finds that inspection by the juvenile, parent, guardian or legal custodian would result in imminent danger to the juvenile. Under the current code, on the written permission of the parent, guardian or legal custodian of a juvenile who is the subject of a record of the juvenile court, or on the written permission of the juvenile, if 14 years of age or over, the juvenile court must open for inspection by the person named in the permission the records of the juvenile court relating to the juvenile. This bill permits a juvenile court to refuse to open its records to a person named in such a permission if the juvenile court finds that inspection by the person named in the permission would result in imminent danger to the juvenile.

Similarly, the current code permits the department of health and family services (DHFS), a county department or a child welfare agency to open its records relating to a juvenile, upon the request of the juvenile's parent, guardian or legal custodian or upon the request of the juvenile, if 14 years of age or over, for inspection by the parent, guardian, legal custodian or juvenile and to open its records relating to a juvenile, on the written permission of the juvenile's parent, guardian or legal custodian or on the written permission of the juvenile, if 14 years of age or over, for inspection by the person named in the written permission. This bill permits DHFS, a county department or a child welfare agency to refuse to open its records for inspection under the circumstances described in this paragraph if that inspection would result in imminent danger to the juvenile.

Under the current code, subject to certain exceptions, a juvenile and his or her parent, guardian or legal custodian may request the substitution of a judge in a proceeding under the code. The current code, however, prohibits a juvenile in a delinquency proceeding and a juvenile and his or her parent, guardian or legal custodian in a proceeding for a juvenile in need of protection or services under the code from requesting the substitution of a judge if the juvenile, parent, guardian or legal custodian has requested the substitution of a judge in a previous proceeding under the code or if the judge assigned to the proceeding has entered a dispositional order with respect to the juvenile in a previous proceeding under the code. This bill also prohibits the substitution of a judge if the juvenile, parent, guardian or legal custodian has requested the substitution of a judge in a previous proceeding under the children's code or if the judge assigned to the proceeding has entered a dispositional order with respect to the juvenile in a previous proceeding under the children's code.

4. **Sanctions.** Under the current code, if a juvenile who has been adjudged delinquent, to be in need of protection or services based on habitual truancy or to have violated a civil law or municipal ordinance violates a condition of his or her dispositional order, the juvenile court may impose certain sanctions on the juvenile. Those sanctions include placement in a secure detention facility for not more than 10 days, suspension or limitation of the juvenile's operating privilege (driver's license) for up to 3 years, home detention for not more than 30 days, with or without electronic monitoring, and not more than 25 hours of community service work. This bill permits a juvenile court to impose those sanctions on a juvenile adjudged to be in need of protection or services for uncontrollability, truancy from home, being a dropout, being under 10 years of age and committing a delinquent act or being not responsible for a delinquent act by reason of mental disease or defect, if the juvenile violates a condition of his or her dispositional order. The bill also specifies that the juvenile court must find by a preponderance of the evidence that the juvenile has violated a condition of his or her dispositional order before the juvenile court may impose a sanction. Finally, the bill requires that, if the juvenile court orders secure detention or home detention with electronic monitoring for a juvenile who has violated a condition of a municipal court dispositional order, the juvenile court must order the municipality of the municipal court to pay the county for the cost of providing the secure detention or electronic monitoring.

5. **Other.** Under the current code, a juvenile who has been taken into custody may be held in a secure detention facility if the intake worker determines that certain conditions apply. One of those conditions is that probable cause exists to believe that the juvenile has committed a delinquent act and presents a substantial risk of physical harm to another person or of running away so as to be unavailable for a court hearing or a revocation of aftercare hearing. Currently, for a juvenile on aftercare supervision, that is, supervision following release from a secured correctional facility, the delinquent act may be the act for which the juvenile was adjudged delinquent. This bill provides that for all juveniles who have been adjudged delinquent, not just juveniles on aftercare, the delinquent act may be the act for which the juvenile was adjudged delinquent.

Under current law, effective July 1, 1996, if a child fails to pay restitution as ordered by a juvenile court or municipal court or as agreed to in a deferred prosecution agreement, or if it appears unlikely that the child will pay, the victim, the victim's insurer, the district attorney, corporation counsel or municipal attorney or the agency supervising the child under the dispositional order may petition the juvenile court to order that the amount of restitution unpaid be entered and docketed as a judgment against the child and the parent with custody of the child. This bill provides that such an order is entered and docketed not only against the child and parent, but also in favor of the victim or victim's insurer, or both. The bill also provides that the rendering of a judgment for restitution does not bar the victim or victim's insurer from commencing another action seeking compensation from the child or parent, or both, if the amount of restitution ordered is less than the total amount of damages claimed.

Similarly, if a child fails to pay a forfeiture, the amount of the forfeiture may be entered and docketed as a judgment against the child and parent with custody of the child. This bill provides that such an order is entered and docketed not only against the child and parent, but also in favor of the county or appropriate municipality.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.147 (title) of the statutes is created to read:

2 **15.147 (title) Same; councils.**

3 **SECTION 2.** 15.197 (23) (title) of the statutes is renumbered 15.147 (1) (title).

4 **SECTION 3.** 15.197 (23) (a) (intro.) of the statutes is renumbered 15.147 (1) (a)
5 (intro.) and amended to read:

6 15.147 (1) (a) (intro.) There is created a gang violence prevention council,
7 attached to the department of ~~health and family services~~ corrections under s. 15.03.
8 The council shall consist of the following members:

9 **SECTION 4.** 15.197 (23) (a) 1., 2., 3., 4., 5., 6. and 7. of the statutes are
10 renumbered 15.147 (1) (a) 1., 2., 3., 4., 5., 6., and 7.

11 **SECTION 5.** 15.197 (23) (a) 8. of the statutes, as affected by 1995 Wisconsin Act
12 27, is renumbered 15.147 (1) (a) 8. and amended to read:

13 15.147 (1) (a) 8. The secretary of ~~health and social services~~ corrections or the
14 secretary's designee, who shall serve as chairperson of the council.

15 **SECTION 6.** 15.197 (23) (a) 9. of the statutes, as affected by 1995 Wisconsin Act
16 27, is renumbered 15.147 (1) (a) 9.

17 **SECTION 7.** 15.197 (23) (a) 10. and (b) of the statutes are renumbered 15.147
18 (1) (a) 10. and (b).

SECTION 8

1 **SECTION 8.** 46.215 (1m) of the statutes, as created by 1995 Wisconsin Act 64,
2 is amended to read:

3 46.215 **(1m)** EXCHANGE OF INFORMATION. Notwithstanding ss. 48.78 (2) (a),
4 49.45 (4), 49.53 (1m), 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) and,
5 253.07 (3) (c) and 938.78 (2) (a), any subunit of the county department of social
6 services acting under this section may exchange confidential information about a
7 client, without the informed consent of the client, with any other subunit of the same
8 county department of social services or with any person providing services to the
9 client under a purchase of services contract with the county department of social
10 services, if necessary to enable an employe or service provider to perform his or her
11 duties, or to enable the county department of social services to coordinate the
12 delivery of services to the client.

13 **SECTION 9.** 46.22 (1) (dm) of the statutes, as created by 1995 Wisconsin Act 64,
14 is amended to read:

15 46.22 **(1)** (dm) *Exchange of information.* Notwithstanding ss. 48.78 (2) (a),
16 49.45 (4), 49.53 (1m), 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) and,
17 253.07 (3) (c) and 938.78 (2) (a), any subunit of the county department of social
18 services acting under this subsection may exchange confidential information about
19 a client, without the informed consent of the client, with any other subunit of the
20 same county department of social services or with any person providing services to
21 the client under a purchase of services contract with the county department of social
22 services, if necessary to enable an employe or service provider to perform his or her
23 duties, or to enable the county department of social services to coordinate the
24 delivery of services to the client.

1 **SECTION 10.** 46.23 (3) (e) of the statutes, as affected by 1995 Wisconsin Acts 27
2 and 64, is amended to read:

3 46.23 (3) (e) *Exchange of information.* Notwithstanding ss. 48.78 (2) (a), 49.45
4 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) ~~and~~, 253.07 (3) (c) and
5 938.78 (2) (a), any subunit of a county department of human services acting under
6 this section may exchange confidential information about a client, without the
7 informed consent of the client, with any other subunit of the same county department
8 of human services or with any person providing services to the client under a
9 purchase of services contract with the county department of human services, if
10 necessary to enable an employe or service provider to perform his or her duties, or
11 to enable the county department of human services to coordinate the delivery of
12 services to the client.

13 **SECTION 11.** 48.023 (4) of the statutes, as affected by 1995 Wisconsin Act 77,
14 is amended to read:

15 48.023 (4) The rights and responsibilities of legal custody except when legal
16 custody has been vested in another person or when the child is under the supervision
17 of the department of corrections under s. 938.183, 938.34 (4h), (4m) or (4n) or 938.357
18 (4) or the supervision of a county department under s. 938.34 (4d) or (4n).

19 **SECTION 12.** 48.396 (1) of the statutes, as affected by 1995 Wisconsin Acts 77
20 and ... (Assembly Bill 609), section 2, is repealed and recreated to read:

21 48.396 (1) Law enforcement officers' records of children shall be kept separate
22 from records of adults. Law enforcement officers' records of children shall not be
23 open to inspection or their contents disclosed except under sub. (1b) or (1d) or s.
24 48.293 or by order of the court. This subsection does not apply to the representatives
25 of newspapers or other reporters of news who wish to obtain information for the

1 purpose of reporting news without revealing the identity of the child involved, to the
2 confidential exchange of information between the police and officials of the school
3 attended by the child or other law enforcement or social welfare agencies or to
4 children 10 years of age or older who are subject to the jurisdiction of the court of
5 criminal jurisdiction.

6 **SECTION 13.** 48.396 (1d) of the statutes is created to read:

7 48.396 (1d) Upon the written permission of the parent, guardian or legal
8 custodian of a child who is the subject of a law enforcement officer's report or upon
9 the written permission of the child, if 14 years of age or over, a law enforcement
10 agency may, subject to official agency policy, make available to the person named in
11 the permission any reports specifically identified by the parent, guardian, legal
12 custodian or child in the written permission.

13 **SECTION 14.** 48.396 (1g) of the statutes, as created by 1995 Wisconsin Act 77,
14 is renumbered 48.396 (1b).

15 **SECTION 15.** 48.396 (1m) of the statutes, as affected by 1995 Wisconsin Acts 77
16 and ... (Assembly Bill 609), is repealed.

17 **SECTION 16.** 48.396 (2) (am) of the statutes, as created by 1995 Wisconsin Act
18 77, is amended to read:

19 48.396 (2) (am) Upon the written permission of the parent, guardian or legal
20 custodian of a child who is the subject of a record of a court specified in par. (a), the
21 court shall open for inspection by the person named in the permission any records
22 specifically identified by the parent, guardian, legal custodian or child in the written
23 permission, unless the court finds, after due notice and hearing, that inspection of
24 those records by the person named in the permission would result in imminent
25 danger to the child.

1 **SECTION 17.** 48.66 (1) of the statutes, as affected by 1995 Wisconsin Act 77, is
2 amended to read:

3 48.66 (1) The department shall license and supervise child welfare agencies,
4 as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities,
5 as required by s. 48.48 and day care centers, as required by s. 48.65. The department
6 may license foster homes or treatment foster homes, as provided by s. 48.62, and may
7 license and supervise county departments in accordance with the procedures
8 specified in this section and in ss. 48.67 to 48.74. The department of corrections may
9 license a child welfare agency to operate a secured child caring institution, as defined
10 in s. 938.02 (15g), for holding in secure custody children who have been convicted
11 under s. 938.183 or adjudicated delinquent under s. 938.34 (4d), (4h) or (4m) and
12 referred to the child welfare agency by the court or the department of corrections and
13 to provide supervision, care and maintenance for those children.

14 **SECTION 18.** 48.78 (2) (ag) of the statutes, as created by 1995 Wisconsin Act 77
15 is amended to read:

16 48.78 (2) (ag) Paragraph (a) does not prohibit an agency from making available
17 for inspection or disclosing the contents of a record, upon the request of the parent,
18 guardian or legal custodian of the child who is the subject of the record or upon the
19 request of the child, if 14 years of age or over, to the parent, guardian, legal custodian
20 or child, unless the agency determines that inspection of those records by the child,
21 parent, guardian or legal custodian would result in imminent danger to the child.

22 **SECTION 19.** 48.78 (2) (am) of the statutes, as created by 1995 Wisconsin Act
23 77, is amended to read:

24 48.78 (2) (am) Paragraph (a) does not prohibit an agency from making
25 available for inspection or disclosing the contents of a record, upon the written

1 permission of the parent, guardian or legal custodian of the child who is the subject
2 of the record or upon the written permission of the child, if 14 years of age or over,
3 to the person named in the permission if the parent, guardian, legal custodian or
4 child specifically identifies the record in the written permission, unless the agency
5 determines that inspection of those records by the person named in the permission
6 would result in imminent danger to the child.

7 **SECTION 20.** 48.983 of the statutes, is renumbered 938.983, and 938.983 (2)
8 (intro.) and (3), as renumbered, are amended to read:

9 938.983 (2) (intro.) Except as provided in sub. (3), no ~~child~~ person under 18
10 years of age may do any of the following:

11 (3) A ~~child~~ person under 18 years of age may purchase or possess cigarettes or
12 tobacco products for the sole purpose of resale in the course of employment during
13 his or her working hours if employed by a retailer licensed under s. 134.65 (1).

14 **SECTION 21.** 51.42 (3) (e) of the statutes, as affected by 1995 Wisconsin Acts 27
15 and 64, is amended to read:

16 51.42 (3) (e) *Exchange of information.* Notwithstanding ss. 48.78 (2) (a), 49.45
17 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) ~~and~~, 253.07 (3) (c) and
18 938.78 (2) (a), any subunit of a county department of community programs acting
19 under this section may exchange confidential information about a client, without the
20 informed consent of the client, with any other subunit of the same county department
21 of community programs or with any person providing services to the client under a
22 purchase of services contract with the county department of community programs,
23 if necessary to enable an employe or service provider to perform his or her duties, or
24 to enable the county department of community programs to coordinate the delivery
25 of services to the client.

1 **SECTION 22.** 51.437 (4r) (b) of the statutes, as created by 1995 Wisconsin Act
2 64, is amended to read:

3 51.437 (4r) (b) Notwithstanding ss. 48.78 (2) (a), 49.45 (4), ~~49.53 (1m)~~ 49.83,
4 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) ~~and~~, 253.07 (3) (c) and 938.78
5 (2) (a), any subunit of the county department of developmental disabilities services
6 acting under this section may exchange confidential information about a client,
7 without the informed consent of the client, with any other subunit of the same county
8 department of developmental disabilities services or with any person providing
9 services to the client under a purchase of services contract with the county
10 department of developmental disabilities services, if necessary to enable an employe
11 or service provider to perform his or her duties, or to enable the county department
12 of developmental disabilities services to coordinate the delivery of services to the
13 client.

14 **SECTION 23.** 103.67 (2) (j) of the statutes is created to read:

15 103.67 (2) (j) Minors 10 to 13 years of age may be employed as participants in
16 a restitution project under s. 938.245 (2) (a) 5., 938.32 (1t) (a), 938.34 (5) or 938.345
17 or a supervised work program or other community service work under s. 938.245 (2)
18 (a) 6., 938.32 (1t) (b), 938.34 (5g), 938.343 (3) or 938.345.

19 **SECTION 24.** 103.70 (1) of the statutes, as affected by 1995 Wisconsin Act 27,
20 is amended to read:

21 103.70 (1) Except as otherwise provided in sub. (2) and in ss. 103.21 to 103.31
22 ~~and~~, 103.78, 938.245 (2) (a) 5. b., 938.32 (1t) (a) 2. and 938.34 (5) (b) and (5g) (c), and
23 as may be provided under s. 103.79, a minor, unless indentured as an apprentice in
24 accordance with s. 106.01, or unless 12 years and over and engaged in agricultural
25 pursuits, or unless 14 years and over and enrolled in a youth apprenticeship program

1 under s. 106.13, shall not be employed or permitted to work at any gainful occupation
2 or employment unless there is first obtained from the department or a permit officer
3 a written permit authorizing the employment of the minor within those periods of
4 time stated in the permit, which shall not exceed the maximum hours prescribed by
5 law.

6 **SECTION 25.** 111.35 (2) (d) of the statutes is amended to read:

7 111.35 (2) (d) Constitutes a violation of s. ~~48.983~~ 938.983 (2).

8 **SECTION 26.** 118.125 (1) (a) of the statutes, as affected by 1995 Wisconsin Acts
9 77 and (Assembly Bill 609), is amended to read:

10 118.125 (1) (a) "Behavioral records" means those pupil records which include
11 psychological tests, personality evaluations, records of conversations, any written
12 statement relating specifically to an individual pupil's behavior, tests relating
13 specifically to achievement or measurement of ability, the pupil's physical health
14 records other than his or her immunization records or any lead screening records
15 required under s. 254.162, law enforcement officers' records obtained under s. 48.396
16 (1) or 938.396 (1m) (a) and any other pupil records that are not progress records.

17 **SECTION 27.** 118.125 (2) (d) of the statutes, as affected by 1995 Wisconsin Acts
18 77 and (Assembly Bill 609), is repealed and recreated to read:

19 118.125 (2) (d) Pupil records shall be made available to persons employed by
20 the school district which the pupil attends who are required by the department under
21 s. 115.28 (7) to hold a license and other school district officials who have been
22 determined by the school board to have legitimate educational interests, including
23 safety interests, in the pupil records. Law enforcement officers' records obtained
24 under s. 938.396 (1m) (a) shall be made available under this paragraph for the
25 purposes of s. 118.127 (2) to those employes of the school district who have been

1 designated by the school board to receive that information for the purpose of
2 providing alcohol and other drug abuse programs. Law enforcement officers' records
3 obtained under s. 938.396 (1m) (am) and (b) shall be made available under this
4 paragraph for the purposes of s. 118.127 (2m) and (3) to persons employed by the
5 school district which the pupil attends who are required by the department under s.
6 115.28 (7) to hold a license, to other school district officials who have been determined
7 by the school board to have legitimate educational interests, including safety
8 interests, in those records and to those employes of the school district who have been
9 designated by the school board to receive that information for the purpose of
10 providing treatment programs. A school board member or an employe of a school
11 district may not be held personally liable for any damages caused by the
12 nondisclosure of any information specified in this paragraph unless the member or
13 employe acted with actual malice in failing to disclose the information. A school
14 district may not be held liable for any damages caused by the nondisclosure of any
15 information specified in this paragraph unless the school district or its agent acted
16 with gross negligence or with reckless, wanton or intentional misconduct in failing
17 to disclose the information.

18 **SECTION 28.** 118.125 (2) (e) of the statutes, as affected by 1995 Wisconsin Acts
19 77 and (Assembly Bill 609), is amended to read:

20 118.125 (2) (e) Upon the written permission of an adult pupil, or the parent or
21 guardian of a minor pupil, the school shall make available to the person named in
22 the permission the pupil's progress records or such portions of the pupil's behavioral
23 records as determined by the person authorizing the release. Law enforcement
24 officers' records obtained under s. 938.396 (1m) (a) may not be made available under

1 this paragraph unless specifically identified by the adult pupil or by the parent or
2 guardian of a minor pupil in the written permission.

3 **SECTION 29.** 118.125 (3) of the statutes, as affected by 1995 Wisconsin Acts 77
4 and (Assembly bill 609), is amended to read:

5 118.125 (3) MAINTENANCE OF RECORDS. Each school board shall adopt rules in
6 writing specifying the content of pupil records and the time during which pupil
7 records shall be maintained. No behavioral records may be maintained for more than
8 one year after the pupil ceases to be enrolled in the school, unless the pupil specifies
9 in writing that his or her behavioral records may be maintained for a longer period.
10 A pupil's progress records shall be maintained for at least 5 years after the pupil
11 ceases to be enrolled in the school. A school board may maintain the records on
12 microfilm, optical disk or in electronic format if authorized under s. 19.21 (4) (c), or
13 in such other form as the school board deems appropriate. A school board shall
14 maintain law enforcement officers' records and other information obtained under s.
15 938.396 (1m) (a) separately from a pupil's other pupil records. Rules adopted under
16 this subsection shall be published by the school board as a class 1 notice under ch.
17 985.

18 **SECTION 30.** 118.125 (5) (b) of the statutes, as created by 1995 Wisconsin Act
19 77, is amended to read:

20 118.125 (5) (b) Law enforcement officers' records and other information
21 obtained under s. 938.396 (1m) and records of the court assigned to exercise
22 jurisdiction under chs. 48 and 938 obtained under s. 938.396 (7) shall not be used as
23 the sole basis for expelling or suspending a pupil.

24 **SECTION 31.** 118.127 (title) of the statutes, as affected by 1995 Wisconsin Act
25 77, is amended to read:

1 **118.127** (title) **Law enforcement officers' records agency information.**

2 **SECTION 32.** 118.127 (1) of the statutes, as affected by 1995 Wisconsin Act 77
3 and ... (Assembly Bill 609), is amended to read:

4 118.127 (1) Upon receipt of information from a law enforcement officers'
5 records obtained agency under s. 938.396 (1m) (~~a~~), the school district administrator
6 shall notify any pupil named in the records information, and the parent or guardian
7 of any minor pupil named in the records information, of the information.

8 **SECTION 33.** 118.127 (2) of the statutes, as affected by 1995 Wisconsin Acts 77
9 and ... (Assembly Bill 609), is amended to read:

10 118.127 (2) A school district shall use information from law enforcement
11 officers' records obtained under s. 938.396 (1m) (a) ~~1.~~ for the purpose of providing
12 alcohol and other drug abuse programs for pupils enrolled in the school district. A
13 school district shall not use law enforcement officers' records obtained under s.
14 938.396 (1m) (a) as the sole basis for expelling or suspending a pupil.

15 **SECTION 34.** 118.127 (3) of the statutes, as created by 1995 Wisconsin Act 77,
16 is amended to read:

17 118.127 (3) A school district shall use information from law enforcement
18 officers' records obtained under s. 938.396 (1m) (b) for legitimate educational ~~or~~
19 safety purposes, including safety purposes, and for the purpose of providing
20 treatment programs for pupils enrolled in the school district. A school district shall
21 not use law enforcement officers' records obtained under s. 938.396 (1m) (b) as the
22 sole basis for expelling or suspending a pupil.

23 **SECTION 35.** 118.127 (3) of the statutes, as created by 1995 Wisconsin Act
24 (Assembly Bill 609), is renumbered 118.127 (2m) and amended to read:

1 118.127 **(2m)** A school district may disclose information from peace law
2 enforcement officers' records obtained under s. ~~48.396 (1m) (a) 2.~~ 938.396 (1m) (am)
3 relating to a pupil of the school district as provided in s. 118.125 (2) (d). A school
4 district may disclose information from peace officers' records obtained under s.
5 ~~48.396 (1m) (a) 2.~~ 938.396 (1m) (am) relating to a person who is not a pupil of the
6 school district to any person employed by the school district who is required by the
7 department under s. 115.28 (7) to hold a license and to other school district officials
8 who have been determined by the school board to have legitimate safety interests in
9 that information. A school district shall not use law enforcement officers' records
10 obtained under s. 938.396 (1m) (am) as the sole basis for expelling or suspending a
11 pupil.

12 **SECTION 36.** 118.163 (2) (intro.) of the statutes is amended to read:

13 118.163 **(2)** (intro.) A county, city, village or town may enact an ordinance
14 prohibiting a child person under 18 years of age from being a habitual truant. The
15 ordinance shall provide which of the following dispositions are available to the court:

16 **SECTION 37.** 118.163 (2) (a) of the statutes is amended to read:

17 118.163 **(2)** (a) Suspension of the child's person's operating privilege, as defined
18 in s. 340.01 (40), for not less than 30 days nor more than 90 days. The court shall
19 immediately take possession of any suspended license and forward it to the
20 department of transportation together with a notice stating the reason for and the
21 duration of the suspension.

22 **SECTION 38.** 118.163 (2) (b) of the statutes, as affected by 1995 Wisconsin Act
23 77, is amended to read:

24 118.163 **(2)** (b) An order for the child person to participate in counseling or a
25 supervised work program or other community service work under s. 938.34 (5g).

1 **SECTION 39.** 118.163 (2) (c) of the statutes is amended to read:

2 118.163 (2) (c) An order for the child person to remain at home except during
3 hours in which the child person is attending religious worship or a school program,
4 including travel time required to get to and from the school program or place of
5 worship. The order may permit a child person to leave his or her home if the child
6 person is accompanied by a parent or guardian.

7 **SECTION 40.** 118.163 (2) (d) of the statutes, as affected by 1995 Wisconsin Act
8 77, is amended to read:

9 118.163 (2) (d) An order for the child person to attend an educational program
10 under s. 938.34 (7d).

11 **SECTION 41.** 118.163 (2) (e) of the statutes, as created by 1995 Wisconsin Act
12 77, is amended to read:

13 118.163 (2) (e) An order for the department of industry, labor and human
14 relations to revoke, under s. 103.72, a permit under s. 103.70 authorizing the
15 employment of the child person.

16 **SECTION 42.** 118.163 (2) (f) of the statutes, as created by 1995 Wisconsin Act
17 77, is amended to read:

18 118.163 (2) (f) An order for the juvenile person to be placed in a teen court
19 program as described in s. 938.342 (1) (f).

20 **SECTION 43.** 118.163 (2m) of the statutes is amended to read:

21 118.163 (2m) A county, city, village or town may enact an ordinance permitting
22 a court to suspend the operating privilege, as defined in s. 340.01 (40), of a child
23 person who is at least 16 years of age but less than 18 years of age and is a dropout.
24 The ordinance shall provide that the court may suspend the child's person's
25 operating privilege, as defined in s. 340.01 (40), until the child person reaches the age

1 of 18. The court shall immediately take possession of any suspended license and
2 forward it to the department of transportation together with a notice stating the
3 reason for and the duration of the suspension.

4 **SECTION 44.** 134.66 (2) (a) of the statutes is amended to read:

5 134.66 (2) (a) No retailer, manufacturer or distributor may sell or give
6 cigarettes or tobacco products to any person under the age of 18, except as provided
7 in s. ~~48.983~~ 938.983 (3). A vending machine operator is not liable under this
8 paragraph for the purchase of cigarettes or tobacco products from his or her vending
9 machine by a person under the age of 18 if the vending machine operator was
10 unaware of the purchase.

11 **SECTION 45.** 134.66 (2) (b) of the statutes is amended to read:

12 134.66 (2) (b) 1. A retailer shall post a sign in areas within his or her premises
13 where cigarettes or tobacco products are sold to consumers stating that the sale of
14 any cigarette or tobacco product to a person under the age of 18 is unlawful under
15 this section and s. ~~48.983~~ 938.983.

16 2. A vending machine operator shall attach a notice in a conspicuous place on
17 the front of his or her vending machines stating that the purchase of any cigarette
18 or tobacco product by a person under the age of 18 is unlawful under s. ~~48.983~~ 938.983
19 and that the purchaser is subject to a forfeiture of not to exceed \$25.

20 **SECTION 46.** 146.81 (5) of the statutes, as affected by 1995 Wisconsin Act 77,
21 is amended to read:

22 146.81 (5) "Person authorized by the patient" means the parent, guardian or
23 legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person
24 vested with supervision of the child under s. ~~938.183~~ or ~~938.34~~ (4d), (4h), (4m) or (4n),
25 the guardian of a patient adjudged incompetent, as defined in s. 880.01 (3) and (4),

1 the personal representative or spouse of a deceased patient, any person authorized
2 in writing by the patient or a health care agent designated by the patient as a
3 principal under ch. 155 if the patient has been found to be incapacitated under s.
4 155.05 (2), except as limited by the power of attorney for health care instrument. If
5 no spouse survives a deceased patient, "person authorized by the patient" also means
6 an adult member of the deceased patient's immediate family, as defined in s. 632.895
7 (1) (d). A court may appoint a temporary guardian for a patient believed incompetent
8 to consent to the release of records under this section as the person authorized by the
9 patient to decide upon the release of records, if no guardian has been appointed for
10 the patient.

11 **SECTION 47.** 301.08 (1) (b) 3. of the statutes is created to read:

12 301.08 (1) (b) 3. Contract with public, private or voluntary agencies for the
13 supervision, maintenance and operation of secured correctional facilities, as defined
14 in s. 938.02 (15m), child caring institutions, as defined in s. 938.02 (2c), and secured
15 child caring institutions, as defined in s. 938.02 (15g), for the placement of juveniles
16 who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.34
17 (4d), (4h) or (4m). The department may designate a secured correctional facility,
18 child caring institution or a secured child caring institution contracted for under this
19 subdivision as a Type 2 secured correctional facility, as defined in s. 938.02 (20), and
20 may designate a child caring institution or secured child caring institution
21 contracted for under this subdivision as a Type 2 child caring institution, as defined
22 in s. 938.02 (19r).

23 **SECTION 48.** 301.26 (4) (cm) 1. of the statutes, as affected by 1995 Wisconsin
24 Act 77, is amended to read:

1 301.26 (4) (cm) 1. Notwithstanding pars. (a), (b) and (bm), the department shall
2 transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations
3 under s. 20.410 (3) (hm), (ho) and (hr) for the purpose of reimbursing juvenile
4 correctional institutions, secured child caring institutions, as defined in s. 938.02
5 (15g), alternate care providers, aftercare supervision providers and corrective
6 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the
7 care of any child 14 years of age or over who has been placed in a juvenile correctional
8 facility based on a delinquent act that is a violation of s. 939.31, 939.32 (1) (a), ~~940.01,~~
9 ~~940.02,~~ 940.03, ~~940.05,~~ 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4.,
10 943.02, 943.10 (2), 943.23 (1g), (1m) or (1r), 943.32 (2), 948.02 (1), 948.025, 948.30 (2),
11 948.35 (1) (b) or 948.36 and for the care of any child 10 years of age or over who has
12 been placed in a secured child caring institution for attempting or committing a
13 violation of s. 940.01 or for committing a violation of s. 940.02 or 940.05.

14 **SECTION 49.** 304.06 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 77,
15 is amended to read:

16 304.06 (1) (b) Except as provided in sub. (1m) or s. 161.49 (2), 302.045 (3) or
17 973.0135, the parole commission may parole an inmate of the Wisconsin state
18 prisons or any felon or any person serving at least one year or more in a county house
19 of correction or a county reforestation camp organized under s. 303.07, when he or
20 she has served 25% of the sentence imposed for the offense, or 6 months, whichever
21 is greater. ~~The parole commission may parole a participant in the serious juvenile~~
22 ~~offender program under s. 938.538 when he or she has participated in that program~~
23 ~~for 2 years.~~ Except as provided in s. 939.62 (2m) or 973.014, the parole commission
24 may parole an inmate serving a life term when he or she has served 20 years, as
25 modified by the formula under s. 302.11 (1) and subject to extension using the

1 formulas under s. 302.11 (2). The person serving the life term shall be given credit
2 for time served prior to sentencing under s. 973.155, including good time under s.
3 973.155 (4). The secretary may grant special action parole releases under s. 304.02.
4 The department or the parole commission shall not provide any convicted offender
5 or other person sentenced to the department's custody any parole eligibility or
6 evaluation until the person has been confined at least 60 days following sentencing.

7 **SECTION 50.** 304.06 (1z) of the statutes, as created by 1995 Wisconsin Act 77,
8 is repealed.

9 **SECTION 51.** 778.25 (1) (a) 4. of the statutes, as affected by 1995 Wisconsin Act
10 77, is amended to read:

11 778.25 (1) (a) 4. Under s. ~~48.983~~ 938.983 brought against an adult in circuit
12 court or against a minor in the court assigned to exercise jurisdiction under chs. 48
13 and 938.

14 **SECTION 52.** 895.035 (2m) (a) of the statutes, as created by 1995 Wisconsin Act
15 77, is amended to read:

16 895.035 (2m) (a) If a child fails to pay restitution under s. 938.245, 938.32,
17 938.34 (5), 938.343 (4) or 938.345 as ordered by a court assigned to exercise
18 jurisdiction under chs. 48 and 938 or a municipal court or as agreed to in a deferred
19 prosecution agreement or if it appears likely that the child will not pay restitution
20 as ordered or agreed to, the victim, the victim's insurer, the representative of the
21 public interest under s. 938.09 or the agency, as defined in s. 938.38 (1) (a),
22 supervising the child may petition the court assigned to exercise jurisdiction under
23 chs. 48 and 938 to order that the amount of restitution unpaid by the child be entered
24 and docketed as a judgment against the child and the parent with custody of the child
25 and in favor of the victim or the victim's insurer, or both. A petition under this

1 paragraph may be filed after the expiration of the deferred prosecution agreement,
2 consent decree, dispositional order or sentence under which the restitution is
3 payable, but no later than one year after the expiration of the deferred prosecution
4 agreement, consent decree, dispositional order or sentence or any extension of the
5 consent decree, dispositional order or sentence. A judgment rendered under this
6 paragraph does not bar the victim or the victim's insurer, or both, from commencing
7 another action seeking compensation from the child or the parent, or both, if the
8 amount of restitution ordered under this paragraph is less than the total amount of
9 damages claimed by the victim or the victim's insurer.

10 **SECTION 53.** 895.034 (2m) (b) of the statutes, as created by 1995 Wisconsin Act
11 77, is amended to read:

12 895.035 **(2m)** (b) If a child fails to pay a forfeiture as ordered by a court assigned
13 to exercise jurisdiction under chs. 48 and 938 or a municipal court or if it appears
14 likely that the child will not pay the forfeiture as ordered, the representative of the
15 public interest under s. 938.09, the agency, as defined in s. 938.38 (1) (a), supervising
16 the child or the law enforcement agency that issued the citation to the child may
17 petition the court assigned to exercise jurisdiction under chs. 48 and 938 to order that
18 the amount of the forfeiture unpaid by the child be entered and docketed as a
19 judgment against the child and the parent with custody of the child and in favor of
20 the county or appropriate municipality. A petition under this paragraph may be filed
21 after the expiration of the dispositional order or sentence under which the forfeiture
22 is payable, but no later than one year after the expiration of the dispositional order
23 or sentence or any extension of the dispositional order or sentence.

24 **SECTION 54.** 938.02 (15m) of the statutes, as created by 1995 Wisconsin Act 77,
25 is amended to read:

1 938.02 (15m) “Secured correctional facility” means a correctional institution
2 operated or contracted for by the department for holding in secure custody persons
3 adjudged delinquent. “Secured correctional facility” includes the facility at which the
4 juvenile boot camp program under s. 938.532 is operated, and a facility authorized
5 under s. 938.533 (3) (b) ~~and a facility authorized under s., 938.538 (4) (b) or 938.539~~
6 (5).

7 **SECTION 55.** 938.02 (19) of the statutes, as created by 1995 Wisconsin Act 77,
8 is amended to read:

9 938.02 (19) “Type 1 secured correctional facility” means a secured correctional
10 facility, but excludes any correctional institution that meets the criteria under sub.
11 (15m) solely because of its status under s. 938.533 (3) (b) ~~or, 938.538 (4) (b) or 938.539~~
12 (5).

13 **SECTION 56.** 938.02 (19r) of the statutes is created to read:

14 938.02 (19r) “Type 2 child caring institution” means a child caring institution
15 that is designated by the department to provide care and maintenance for juveniles
16 who have been placed in the child caring institution under the supervision of a county
17 department under s. 938.34 (4d).

18 **SECTION 57.** 938.02 (20) of the statutes, as created by 1995 Wisconsin Act 77,
19 is amended to read:

20 938.02 (20) “Type 2 secured correctional facility” means a secured correctional
21 facility that meets the criteria under sub. (15m) solely because of its status under s.
22 938.533 (3) (b) ~~or, 938.538 (4) (b) or 938.539 (5)~~.

23 **SECTION 58.** 938.028 of the statutes is created to read:

1 **938.028 Custody of Indian children.** The Indian child welfare act, 25 USC
2 1911 to 1963, supercedes the provisions of this chapter in any child custody
3 proceeding governed by that act.

4 **SECTION 59.** 938.065 (3) (f) of the statutes, as created by 1995 Wisconsin Act
5 77, is amended to read:

6 938.065 (3) (f) Make any dispositional order under s. 938.34 (4d), (4h) or (4m).

7 **SECTION 60.** 938.08 (3) of the statutes, as created by 1995 Wisconsin Act 77, is
8 amended to read:

9 938.08 (3) (a) In addition to the law enforcement authority specified in sub. (2),
10 department personnel designated by the department and personnel of an agency
11 contracted with under s. 301.08 (1) (b) 3. designated by agreement between the
12 agency and the department have the power of law enforcement authorities to take
13 a juvenile into physical custody under the following conditions:

14 1. If they are in prompt pursuit of a juvenile who has run away from a secured
15 correctional facility or secured child caring institution.

16 2. If the juvenile has failed to return to a secured correctional facility or ~~secured~~
17 child caring institution after any authorized absence.

18 (b) A juvenile taken into custody under par. (a) may be returned directly to the
19 secured correctional facility or ~~secured~~ child caring institution and shall have a
20 hearing regarding placement in a disciplinary cottage or in disciplinary status in
21 accordance with ch. 227.

22 **SECTION 61.** 938.17 (2) (h) 4. of the statutes is created to read:

23 938.17 (2) (h) 4. If the court assigned to exercise jurisdiction under this chapter
24 and ch. 48 imposes the sanction specified in s. 938.355 (6) (d) 1. or home detention
25 with monitoring by an electronic monitoring system as specified in s. 938.355 (6) (d)

1 3., on a petition described in subd. 1., that court shall order the municipality of the
2 municipal court that filed the petition to pay to the county the cost of providing the
3 sanction imposed under s. 938.355 (6) (d) 1. or 3.

4 **SECTION 62.** 938.18 (2m) of the statutes is created to read:

5 938.18 (2m) The court may designate an agency, as defined in s. 938.38 (1) (a),
6 to submit a report analyzing the criteria specified in sub. (5). The agency shall file
7 the report with the court and the court shall cause copies of the report to be given to
8 the juvenile, any parent, guardian or legal custodian of the juvenile and counsel at
9 least 3 days before the hearing. The court may rely on facts stated in the report in
10 making its findings with respect to the criteria under sub. (5).

11 **SECTION 63.** 938.18 (2r) of the statutes, as created by 1995 Wisconsin Act 77,
12 is repealed.

13 **SECTION 64.** 938.18 (7) of the statutes, as created by 1995 Wisconsin Act 77, is
14 amended to read:

15 938.18 (7) If the juvenile absconds and does not appear at the waiver hearing,
16 the court may proceed with the waiver hearing as provided in subs. (4) to (6) in the
17 juvenile's absence. If the waiver is granted, the juvenile may contest that waiver
18 when the juvenile is apprehended by showing the court of criminal jurisdiction good
19 cause for his or her failure to appear. If the court of criminal jurisdiction finds good
20 cause for the juvenile's failure to appear, that court shall transfer jurisdiction to the
21 court assigned to exercise jurisdiction under this chapter and ch. 48 for the purpose
22 of holding the waiver hearing.

23 **SECTION 65.** 938.183 (1) (a) of the statutes, as created by 1995 Wisconsin Act
24 77, is amended to read:

1 938.183 (1) (a) A juvenile who has been adjudicated delinquent and who is
2 alleged to have violated s. 940.20 (1) or 946.43 while placed in a secured correctional
3 facility, a secure detention facility, a secured child caring institution or a secured
4 adolescent treatment unit under s. 46.043 or who has been adjudicated delinquent
5 and ~~has~~ who is alleged to have committed a violation of s. 940.20 (2m).

6 **SECTION 66.** 938.183 (1) (b) of the statutes, as created by 1995 Wisconsin Act
7 77, is amended to read:

8 938.183 (1) (b) A juvenile who is alleged to have violated any state criminal law
9 if the juvenile has been convicted of a previous violation following waiver of
10 jurisdiction under s. 48.18, 1993 stats., or s. 938.18 by the court assigned to exercise
11 jurisdiction under this chapter and ch. 48 or if the court assigned to exercise
12 jurisdiction under this chapter and ch. 48 has waived its jurisdiction over the
13 juvenile for a previous violation and criminal proceedings on that previous violation
14 are still pending.

15 **SECTION 67.** 938.183 (1m) of the statutes, as created by 1995 Wisconsin Act 77,
16 is renumbered 938.183 (1m) (intro.) and amended to read:

17 938.183 (1m) (intro.) Notwithstanding subchs. IV to VI, a juvenile described
18 in sub. (1) is subject to the procedures specified in chs. 967 to 979 and the criminal
19 penalties provided for the crime that the juvenile is alleged to have committed,
20 unless except as follows:

21 (b) If a court of criminal jurisdiction transfers jurisdiction under s. 970.032 to
22 a court assigned to exercise jurisdiction under this chapter and ch. 48, the juvenile
23 is subject to the procedures and dispositions specified in subch. IV to VI.

24 **SECTION 68.** 938.183 (1m) (a) of the statutes is created to read:

1 938.183 (1m) (a) If the juvenile is under 15 years of age, the juvenile may be
2 held in secure custody only in a secure detention facility or in the juvenile portion of
3 a county jail.

4 **SECTION 69.** 938.183 (1m) (c) of the statutes is created to read:

5 938.183 (1m) (c) If the juvenile is convicted of a lesser offense and if any of the
6 conditions specified in s. 938.183 (2) (a) 1. or 2. applies, the court of criminal
7 jurisdiction may impose a criminal penalty or a disposition specified in s. 938.34.

8 **SECTION 70.** 938.185 (1) (c) of the statutes, as created by 1995 Wisconsin Act
9 77, is amended to read:

10 938.185 (1) (c) In the case of a violation of a state law or a county, town or
11 municipal ordinance, the county where the violation occurred, except that in that
12 case the court of the county where the violation occurred may, after the juvenile is
13 adjudged delinquent, transfer the proceeding to the county where the juvenile
14 resides for disposition, if the court of the county of residence agrees to that transfer
15 ~~and the transferring court agrees to that disposition.~~

16 **SECTION 71.** 938.208 (1) (intro.) of the statutes, as created by 1995 Wisconsin
17 Act 77, is amended to read:

18 938.208 (1) (intro.) Probable cause exists to believe that the juvenile has
19 committed a delinquent act and either presents a substantial risk of physical harm
20 to another person or a substantial risk of running away so as to be unavailable for
21 a court hearing or a revocation hearing for juveniles on aftercare supervision. For
22 juveniles ~~on aftercare supervision~~ who have been adjudged delinquent, the
23 delinquent act referred to in this section may be the act for which the juvenile was
24 adjudged delinquent. If the intake worker determines that any of the following

1 conditions applies, the juvenile is considered to present a substantial risk of physical
2 harm to another person:

3 **SECTION 72.** 938.208 (6) of the statutes is created to read:

4 938.208 (6) Probable cause exists to believe that the juvenile is subject to the
5 jurisdiction of the court of criminal jurisdiction under s. 938.183 (1) and is under 15
6 years of age.

7 **SECTION 73.** 938.209 (3) of the statutes, as created by 1995 Wisconsin Act 77,
8 is amended to read:

9 938.209 (3) The restrictions of this section do not apply to the use of jail for a
10 juvenile who has been waived to adult court under s. 938.18 or who is under the
11 jurisdiction of an adult court under s. 938.183, unless the juvenile is under the
12 jurisdiction of an adult court under s. 938.183 (1) and is under 15 years of age.

13 **SECTION 74.** 938.24 (5) of the statutes, as created by 1995 Wisconsin Act 77, is
14 amended to read:

15 938.24 (5) The intake worker shall recommend request that a petition be filed,
16 enter into a deferred prosecution agreement or close the case within 40 days or sooner
17 of receipt of referral information. If the case is closed or a deferred prosecution
18 agreement is entered into, the district attorney, corporation counsel or other official
19 under s. 938.09 shall receive written notice of such action. In addition, if a deferred
20 prosecution agreement is entered into placing a juvenile in a youth village program
21 as described in s. 118.42, the judge or juvenile court commissioner shall receive
22 written notice of such action and, on receipt of that notice, shall enter an order
23 requiring compliance with that agreement. A notice of deferred prosecution of an
24 alleged delinquency case shall include a summary of the facts surrounding the
25 allegation and a list of prior intake referrals and dispositions. If a law enforcement

1 officer has made a recommendation concerning the juvenile, the intake worker shall
2 forward this recommendation to the district attorney under s. 938.09.
3 Notwithstanding the requirements of this section, the district attorney may initiate
4 a delinquency petition under s. 938.25 within 20 days after notice that the case has
5 been closed or that a deferred prosecution agreement has been entered into. The
6 judge shall grant appropriate relief as provided in s. 938.315 (3) with respect to any
7 such petition which is not referred or filed within the time limits specified within this
8 subsection. Failure to object if a petition is not referred or filed within a time limit
9 specified in this subsection waives that time limit.

10 **SECTION 75.** 938.245 (2) (a) 5. b. of the statutes, as created by 1995 Wisconsin
11 Act 77, is amended to read:

12 938.245 (2) (a) 5. b. In addition to any other employment or duties permitted
13 under ch. 103 or any rule or order under ch. 103, a juvenile ~~who is~~ under 14 years of
14 age who is participating in a restitution project provided by the county may, for the
15 purpose of making restitution, be employed or perform any duties under any
16 circumstances in which a juvenile 14 or 15 years of age is permitted to be employed
17 or to perform duties under ch. 103 or any rule or order under ch. 103. A juvenile who
18 is participating in a restitution project provided by the county is exempt from the
19 permit requirement under s. 103.70 (1).

20 **SECTION 76.** 938.245 (2g) of the statutes, as created by 1995 Wisconsin Act 77,
21 is amended to read:

22 938.245 (2g) If the ~~informal disposition~~ deferred prosecution agreement is
23 based on an allegation that the juvenile violated s. 943.017 and the juvenile has
24 attained the minimum age at which a juvenile may be adjudicated delinquent, the
25 ~~informal disposition~~ deferred prosecution agreement may require that the juvenile

1 participate for not less than 10 hours nor more than 100 hours in a supervised work
2 program under s. 938.34 (5g) or perform not less than 10 hours nor more than 100
3 hours of other community service work, except that if the juvenile has not attained
4 14 years of age the maximum number of hours is 40.

5 **SECTION 77.** 938.245 (4) of the statutes, as created by 1995 Wisconsin Act 77,
6 is amended to read:

7 938.245 (4) The intake worker shall inform the juvenile and the juvenile's
8 parent, guardian and legal custodian in writing of their right to request the court to
9 terminate or, if the juvenile is subject to a deferred prosecution agreement under sub.
10 (2) (a) 9., to request the court to terminate the deferred prosecution agreement at any
11 time or to object at any time to the fact or terms of the deferred prosecution
12 agreement. If an objection arises the intake worker may alter the terms of the
13 agreement or recommend to the district attorney or corporation counsel that a
14 petition be filed. If the deferred prosecution agreement is terminated the intake
15 worker may recommend to the district attorney or corporation counsel that a petition
16 be filed.

17 **SECTION 78.** 938.245 (5) of the statutes, as created by 1995 Wisconsin Act 77,
18 is amended to read:

19 938.245 (5) A deferred prosecution agreement under sub. (2) (a) 1. to 8. may
20 be terminated ~~by the court~~ upon the request of the juvenile, parent, guardian or legal
21 custodian. A deferred prosecution agreement under sub. (2) (a) 9. may be terminated
22 by the court upon the request of the juvenile, parent, guardian or legal custodian.

23 **SECTION 79.** 938.245 (7) (a) of the statutes, as created by 1995 Wisconsin Act
24 77, is amended to read:

1 938.245 (7) (a) If at any time during the period of a deferred prosecution
2 agreement the intake worker determines that the obligations imposed under it are
3 not being met, the intake worker may cancel the deferred prosecution agreement.
4 Within 10 days after the cancellation of the deferred prosecution agreement, the
5 intake worker shall notify the district attorney, corporation counsel or other official
6 under s. 938.09 of the cancellation and recommend whether or not a petition should
7 be filed. In delinquency cases, the district attorney may initiate a petition within 20
8 days after the date of the notice regardless of whether the intake worker has
9 recommended that a petition be filed. The judge shall grant appropriate relief as
10 provided in s. 938.315 (3) with respect to any petition which is not filed within the
11 time limit specified in this subsection. Failure to object if a petition is not filed within
12 the time limit specified in this subsection waives that time limit.

13 **SECTION 80.** 938.25 (2) (a) of the statutes, as created by 1995 Wisconsin Act 77,
14 is amended to read:

15 938.25 (2) (a) The district attorney, corporation counsel or other appropriate
16 official shall file the petition, close the case, or refer the case back to intake or, with
17 notice to intake, the law enforcement agency investigating the case within 20 days
18 after the date that the intake worker's recommendation request was filed. A referral
19 back to intake or the law enforcement agency investigating the case may be made
20 only when the district attorney, corporation counsel or other appropriate official
21 decides not to file a petition or determines that further investigation is necessary.
22 If the case is referred back to intake upon a decision not to file a petition, the intake
23 worker shall close the case or enter into a deferred prosecution agreement within 20
24 days. If the case is referred back to intake or the law enforcement agency
25 investigating the case for further investigation, the appropriate agency or person

1 shall complete the investigation within 20 days. If another referral is made to the
2 district attorney, corporation counsel or other appropriate official by intake or the
3 law enforcement agency investigating the case, it shall be considered a new referral
4 to which the time limits of this subsection shall apply. The time limits in this
5 subsection may only be extended by a judge upon a showing of good cause under s.
6 938.315. If a petition is not filed within the time limitations set forth in this
7 subsection and the court has not granted an extension, the petition shall be
8 accompanied by a statement of reasons for the delay. The court shall grant
9 appropriate relief as provided in s. 938.315 (3) with respect to a petition which is not
10 filed within the time limits specified in this paragraph. Failure to object if a petition
11 is not filed within the time limits specified in this paragraph waives those time
12 limits.

13 **SECTION 81.** 938.25 (2) (b) of the statutes, as created by 1995 Wisconsin Act 77,
14 is amended to read:

15 938.25 (2) (b) In delinquency cases where there has been a case closure or
16 deferred prosecution agreement, the petition shall be filed within 20 days of receipt
17 of the notice of closure or deferred prosecution. Failure to file within 20 days
18 invalidates the petition and affirms the case closure or deferred prosecution
19 agreement, except that the court shall grant appropriate relief as provided in s.
20 938.315 (3) with respect to a petition that is not filed within the time limit specified
21 in this paragraph and that failure to object if a petition is not filed within the time
22 limit specified in this paragraph waives that time limit. If a petition is filed within
23 20 days or the time permitted by the court under s. 938.315 (3), whichever is later,
24 the district attorney shall notify the parties to the agreement and the intake worker
25 as soon as possible.

1 **SECTION 82.** 938.29 (1g) of the statutes, as created by 1995 Wisconsin Act 77,
2 is amended to read:

3 **938.29 (1g)** The juvenile may not request the substitution of a judge in a
4 proceeding under s. 938.12 or 938.13 (12), and the juvenile and the juvenile's parent,
5 guardian or legal custodian may not request the substitution of a judge in a
6 proceeding under s. 938.13 (4), (6), (6m) or (7), if the judge assigned to the proceeding
7 has entered a dispositional order with respect to the juvenile in a previous proceeding
8 under s. 48.12, 1993 stats., s. 48.13 (4), (6), (6m), (7) or (12), 1993 stats., s. 938.12 or
9 938.13 (4), (6), (6m), (7) or (12) or the juvenile or the juvenile's parent, guardian or
10 legal custodian has requested the substitution of a judge in a previous proceeding
11 under s. 48.12, 1993 stats., s. 48.13 (4), (6), (6m), (7) or (12), 1993 stats., s. 938.12 or
12 938.13 (4), (6), (6m), (7) or (12).

13 **SECTION 83.** 938.299 (1) (ar) of the statutes, as created by 1995 Wisconsin Act
14 77, is amended to read:

15 **938.299 (1) (ar)** Notwithstanding par. (a), the general public may attend any
16 hearing under this chapter relating to a juvenile who has been alleged to be
17 delinquent for committing a violation that would be a felony if committed by an adult
18 if the juvenile has been adjudicated delinquent previously and that previous
19 adjudication remains of record and unreversed or relating to a juvenile who has been
20 alleged to be delinquent for committing a violation specified in s. ~~939.62 (2m) (a) 1.,~~
21 ~~2. or 3. or a violation of s. 948.30 (1) or for conspiracy under s. 939.31 to commit any~~
22 ~~violation s.938.34 (4h) (a),~~ except that the court shall exclude the general public from
23 a hearing if the victim of a sexual assault objects and may, in its discretion, exclude
24 the general public from any portion of a hearing which deals with sensitive personal
25 matters of the juvenile or the juvenile's family and which does not relate to the act

1 or alleged act committed by the juvenile or from any other hearing described in this
2 paragraph. If the court excludes the general public from a hearing described in this
3 paragraph, only those persons who are permitted under par. (a) or (am) to attend a
4 hearing from which the general public is excluded may attend.

5 **SECTION 84.** 938.299 (1) (av) of the statutes is created to read:

6 938.299 (1) (av) If a public hearing is held under par. (a) or (ar), any person may
7 disclose to anyone any information obtained as a result of that hearing.

8 **SECTION 85.** 938.299 (1) (b) of the statutes, as created by 1995 Wisconsin Act
9 77, is amended to read:

10 938.299 (1) (b) Except as provided in par. (av) and s. 938.396, any person who
11 divulges any information which would identify the juvenile or the family involved in
12 any proceeding under this subchapter is subject to ch. 785. This paragraph does not
13 preclude a victim of the juvenile's act from commencing a civil action based upon the
14 juvenile's act.

15 **SECTION 86.** 938.315 (1) (dm) of the statutes is created to read:

16 938.315 (1) (dm) Any period of delay resulting from court congestion or
17 scheduling.

18 **SECTION 87.** 938.315 (3) of the statutes, as created by 1995 Wisconsin Act 77,
19 is amended to read:

20 938.315 (3) Failure to comply with any time limit specified in this chapter does
21 not deprive the court of personal or subject matter jurisdiction or of competency to
22 exercise that jurisdiction. Failure to object to a period of delay or a continuance
23 waives the time limit that is the subject of the period of delay or continuance. If a
24 party does not comply with a time limit specified in this chapter, the court may grant
25 a continuance under sub. (2), dismiss the petition with or without prejudice, release

1 the juvenile from secure or nonsecure custody or from the terms of a custody order
2 or grant any other relief that the court considers appropriate.

3 **SECTION 88.** 938.32 (1t) (a) 2. of the statutes, as created by 1995 Wisconsin Act
4 77, is amended to read:

5 938.32 (1t) (a) 2. In addition to any other employment or duties permitted
6 under ch. 103 or any rule or order under ch. 103, a juvenile ~~who is~~ under 14 years of
7 age who is participating in a restitution project provided by the county may, for the
8 purpose of making restitution under the consent decree, be employed or perform any
9 duties under any circumstances in which a juvenile 14 or 15 years of age is permitted
10 to be employed or to perform duties under ch. 103 or any rule or order under ch. 103.
11 A juvenile who is participating in a restitution project provided by the county is
12 exempt from the permit requirement under s. 103.70 (1).

13 **SECTION 89.** 938.34 (4d) of the statutes is created to read:

14 938.34 (4d) TYPE 2 CHILD CARING INSTITUTION PLACEMENT. Place the juvenile in
15 a Type 2 child caring institution under the supervision of the county department and
16 subject to Type 2 status, as described in s. 938.539, but only if all of the following
17 apply:

18 (a) The juvenile has been found to be delinquent for the commission of an act
19 which if committed by an adult would be punishable by a sentence of 6 months or
20 more.

21 (b) The juvenile has been found to be a danger to the public and to be in need
22 of restrictive custodial treatment. If the judge determines that any of the conditions
23 specified in sub. (4m) (b) 1., 2. or 3. applies, but that placement in the serious juvenile
24 offender program under sub. (4h) or in a secured correctional facility under sub. (4m)
25 would not be appropriate, that determination shall be prima facie evidence that the

1 juvenile is a danger to the public and in need of restrictive custodial treatment under
2 this subsection.

3 **SECTION 90.** 938.34 (4h) (a) of the statutes, as created by 1995 Wisconsin Act
4 77, is amended to read:

5 938.34 (4h) (a) The juvenile is 14 years of age or over and has been adjudicated
6 delinquent for committing a violation of s. 939.31, 939.32 (1) (a), 940.03, 940.21,
7 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), (1m)
8 or (1r), 943.32 (2), 948.02 (1), 948.025, 948.30 (2), 948.35 (1) (b) or 948.36 or the
9 juvenile is 10 years of age or over and has been adjudicated delinquent for attempting
10 or committing a violation of s. 940.01 or for committing a violation of 940.02 or
11 940.05.

12 **SECTION 91.** 938.34 (5) (b) of the statutes, as created by 1995 Wisconsin Act 77,
13 is amended to read:

14 938.34 (5) (b) In addition to any other employment or duties permitted under
15 ch. 103 or any rule or order under ch. 103, a juvenile who is under 14 years of age who
16 is participating in a restitution project provided by the county may, for the purpose
17 of making restitution ordered by the court under this subsection, be employed or
18 perform any duties under any circumstances in which a juvenile 14 or 15 years of age
19 is permitted to be employed or perform duties under ch. 103 or any rule or order
20 under ch. 103. A juvenile who is participating in a restitution project provided by the
21 county is exempt from the permit requirement under s. 103.70 (1).

22 **SECTION 92.** 938.34 (5g) (c) of the statutes, as created by 1995 Wisconsin Act
23 77, is amended to read:

24 938.34 (5g) (c) In addition to any other employment or duties permitted under
25 ch. 103 or any rule or order under ch. 103, a juvenile who is under 14 years of age who

1 is participating in a supervised work program or other community service work may,
2 for purposes of performing the supervised work or other community service work, be
3 employed or perform any duties under any circumstances in which a juvenile 14 or
4 15 years of age is permitted to be employed or perform duties under ch. 103 or any
5 rule or order under ch. 103. A juvenile who is participating in a supervised work
6 program or other community service work is exempt from the permit requirement
7 under s. 103.70 (1).

8 **SECTION 93.** 938.34 (8) of the statutes, as created by 1995 Wisconsin Act 77, is
9 amended to read:

10 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that
11 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The
12 maximum forfeiture that the court may impose under this subsection for a violation
13 by a juvenile is the maximum amount of the fine that may be imposed on an adult
14 for committing that violation or, if the violation is applicable only to a juvenile person
15 under 18 years of age, \$100. Any such order shall include a finding that the juvenile
16 alone is financially able to pay the forfeiture and shall allow up to 12 months for
17 payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture
18 and order other alternatives under this section, in accordance with the conditions
19 specified in this subchapter; or the court may suspend any license issued under ch.
20 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating
21 privilege as defined in s. 340.01 (40) for not less than 30 days nor more than 5 years.
22 If the court suspends any license under this subsection, the clerk of the court shall
23 immediately take possession of the suspended license and forward it to the
24 department which issued the license, together with a notice of suspension clearly
25 stating that the suspension is for failure to pay a forfeiture imposed by the court. If

1 the forfeiture is paid during the period of suspension, the suspension shall be reduced
2 to the time period which has already elapsed and the court shall immediately notify
3 the department which shall then return the license to the juvenile.

4 **SECTION 94.** 938.34 (16) of the statutes, as created by 1995 Wisconsin Act 77,
5 is amended to read:

6 **938.34 (16) STAY OF ORDER.** After ordering a disposition under this section,
7 enter an additional order staying the execution of the dispositional order contingent
8 on the juvenile's satisfactory compliance with any conditions that are specified in the
9 dispositional order and explained to the juvenile by the court. If the juvenile violates
10 a condition of his or her dispositional order, the agency supervising the juvenile shall
11 notify the court and the court shall hold a hearing within 30 days after the filing of
12 the notice to determine whether the original disposition order should be imposed,
13 unless the juvenile signs a written waiver of any objections to imposing the original
14 dispositional order and the court approves the waiver. If a hearing is held, the court
15 shall notify the parent, juvenile, guardian and legal custodian, all parties bound by
16 the original dispositional order and the district attorney or corporation counsel in the
17 county in which the dispositional order was entered at the time and place of the
18 hearing at least 3 days before the hearing. If all parties consent, the court may
19 proceed immediately with the hearing. The court may not impose the original
20 dispositional order unless the court finds ~~to a reasonable certainty by the greater~~
21 ~~weight by a preponderance~~ by a preponderance of the credible evidence that the juvenile has violated a
22 condition of his or her dispositional order.

23 **SECTION 95.** 938.342 of the statutes, as created by 1995 Wisconsin Act 77, is
24 amended to read:

1 **938.342 Disposition; truancy and school dropout ordinance violations.**

2 (1) If the court finds that ~~the juvenile~~ a person under 18 years of age violated a
3 municipal ordinance enacted under s. 118.163 (2), the court shall enter an order
4 making one or more of the following dispositions if such a disposition is authorized
5 by the municipal ordinance:

6 (a) Suspend the juvenile's person's operating privilege, as defined in s. 340.01
7 (40), for not less than 30 days nor more than 90 days. The court shall immediately
8 take possession of the suspended license and forward it to the department of
9 transportation together with a notice stating the reason for and duration of the
10 suspension.

11 (b) Order the juvenile person to participate in counseling or a supervised work
12 program or other community service work under s. 938.34 (5g).

13 (c) Order the juvenile person to remain at home except during hours in which
14 the juvenile person is attending religious worship or a school program, including
15 travel time required to get to and from the school program or place of worship. The
16 order may permit a juvenile person to leave his or her home if the juvenile person is
17 accompanied by a parent or guardian.

18 (d) Order the juvenile person to attend an educational program under s. 938.34
19 (7d).

20 (e) Order the department of industry, labor and job development to revoke,
21 under s. 103.72, a permit under s. 103.70 authorizing the employment of the juvenile
22 person.

23 (f) Order the juvenile person to be placed in a teen court program if all of the
24 following conditions apply:

1 1. The chief judge of the judicial administrative district has approved a teen
2 court program established in the juvenile's person's county of residence and the judge
3 determines that participation in the teen court program will likely benefit the
4 juvenile person and the community.

5 2. The juvenile person admits or pleads no contest in open court, with the
6 juvenile's person's parent, guardian or legal custodian present, to the allegations
7 that the juvenile person violated the municipal ordinance enacted under s. 118.163
8 (2).

9 3. The juvenile person has not successfully completed participation in a teen
10 court program during the 2 years before the date of the alleged municipal ordinance
11 violation.

12 **(1m)** (a) If the court finds that the juvenile person violated a municipal
13 ordinance enacted under s. 118.163 (2), the court may, in addition to or instead of the
14 dispositions under sub. (1), order the juvenile's person's parent, guardian or legal
15 custodian to participate in counseling at the parent's, guardian's or legal custodian's
16 own expense.

17 (b) No order to any person parent, guardian or legal custodian under par. (a)
18 may be entered until the person parent, guardian or legal custodian is given an
19 opportunity to be heard on the contemplated order of the court. The court shall cause
20 notice of the time, place and purpose of the hearing to be served on the person parent,
21 guardian or legal custodian personally at least 10 days before the date of the hearing.
22 The procedure in these cases shall, as far as practicable, be the same as in other cases
23 to the court. At the hearing, the person parent, guardian or legal custodian may be
24 represented by counsel and may produce and cross-examine witnesses. Any person

1 parent, guardian or legal custodian who fails to comply with any order issued by a
2 court under par. (a) may be proceeded against for contempt of court.

3 (2) (a) Except as provided in par. (b), if the court finds that ~~the juvenile~~ a person
4 is subject to a municipal ordinance enacted under s. 118.163 (2m), the court shall
5 enter an order suspending the juvenile's person's operating privilege, as defined in
6 s. 340.01 (40), until the juvenile person reaches the age of 18.

7 (b) The court may enter an order making any of the dispositions specified under
8 sub. (1) if the court finds that suspension of the juvenile's person's operating
9 privilege, as defined in s. 340.01 (40), until the juvenile person reaches the age of 18
10 would cause an undue hardship to the juvenile person or the juvenile's family.

11 **SECTION 96.** 938.343 (2) of the statutes, as created by 1995 Wisconsin Act 77,
12 is amended to read:

13 938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may
14 be imposed on an adult for committing that violation or, if the violation is only
15 applicable to a juvenile person under 18 years of age, \$50. Any such order shall
16 include a finding that the juvenile alone is financially able to pay and shall allow up
17 to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may
18 suspend any license issued under ch. 29 or suspend the juvenile's operating privilege
19 as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. The court
20 shall immediately take possession of the suspended license and forward it to the
21 department which issued the license, together with the notice of suspension clearly
22 stating that the suspension is for failure to pay a forfeiture imposed by the court. If
23 the forfeiture is paid during the period of suspension, the court shall immediately
24 notify the department, which will thereupon return the license to the person.

1 **SECTION 97.** 938.355 (4) of the statutes, as created by 1995 Wisconsin Act 77,
2 is amended to read:

3 938.355 (4) TERMINATION OF ORDERS. (a) Except as provided under par. (b) or
4 s. 938.368, all orders under this section shall terminate at the end of one year unless
5 the court specifies a shorter period of time. Except if s. 938.368 applies, extensions
6 or revisions shall terminate at the end of one year unless the court specifies a shorter
7 period of time. No extension under s. 938.365 of an original dispositional order may
8 be granted for a juvenile who is subject to an order under s. 938.34 (4d), (4h), (4m)
9 or (4n) if the juvenile is 17 years of age or older when the original dispositional order
10 terminates. Any order made before the juvenile reaches the age of majority shall be
11 effective for a time up to one year after its entry unless the court specifies a shorter
12 period of time.

13 (b) An order under s. 938.34 (4d), (4h) or (4m) for which a juvenile has been
14 adjudicated delinquent is subject to par. (a), except that the judge may make an order
15 under s. 938.34 (4d) or (4m) apply for up to 2 years or until the juvenile's 18th
16 birthdate, whichever is earlier and the judge shall make an order under s. 938.34 (4h)
17 apply for 5 years, if the juvenile is adjudicated delinquent for committing an act that
18 would be punishable as a Class B felony if committed by an adult, or until the
19 juvenile reaches 25 years of age, if the juvenile is adjudicated delinquent for
20 committing an act that would be punishable as a Class A felony if committed by an
21 adult.

22 **SECTION 98.** 938.355 (6) (title) and (a) of the statutes, as created by 1995
23 Wisconsin Act 77, are amended to read:

24 938.355 (6) (title) SANCTIONS FOR VIOLATION OF ORDER, ~~DELINQUENCY OR CIVIL LAW~~
25 ~~OR ORDINANCE VIOLATION.~~ (a) If a juvenile who has been adjudged delinquent or, found

1 to be in need of protection or services under s. 938.13 (4), (6m), (7), (12) or (14) or
2 adjudged to have violated a civil law or ordinance violates a condition specified in
3 sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in
4 par. (d) if, at the dispositional hearing under s. 938.335, the court explained the
5 conditions to the juvenile and informed the juvenile of those possible sanctions or if
6 before the violation the juvenile has acknowledged in writing that he or she has read,
7 or has had read to him or her, those conditions and possible sanctions and that he or
8 she understands those conditions and possible sanctions. The court may not order
9 the sanction of placement in a place of nonsecure custody specified in par. (d) 1.
10 unless the court finds that the agency primarily responsible for providing services
11 for the juvenile has made reasonable efforts to prevent the removal of the juvenile
12 from his or her home and that continued placement of the juvenile in his or her home
13 is contrary to the welfare of the juvenile.

14 **SECTION 99.** 938.355 (6) (an) of the statutes, as created by 1995 Wisconsin Act
15 77, is renumbered 938.355 (6) (an) 1.

16 **SECTION 100.** 938.355 (6) (an) 2. of the statutes is created to read:

17 938.355 (6) (an) 2. If the court assigned to exercise jurisdiction under this
18 chapter and ch. 48 imposes the sanction specified in par. (d) 1. or home detention with
19 monitoring by an electronic monitoring system as specified in par. (d) 3., on a petition
20 described in subd. 1., that court shall order the municipality of the municipal court
21 that filed the petition to pay to the county the cost of providing the sanction imposed
22 under par. (d) 1. or 3.

23 **SECTION 101.** 938.355 (6) (d) (intro.) of the statutes, as created by 1995
24 Wisconsin Act 77, is amended to read:

1 938.355 (6) (d) (intro.) ~~The~~ If the court finds by a preponderance of the evidence
2 that the juvenile has violated a condition of his or her dispositional order, the court
3 may order any of the following sanctions as a consequence for any incident in which
4 the juvenile has violated one or more conditions of his or her dispositional order:

5 **SECTION 102.** 938.355 (6m) (a) of the statutes, as created by 1995 Wisconsin Act
6 77, is amended to read:

7 938.355 (6m) (a) If the court finds by a preponderance of the evidence that a
8 juvenile who has been found in need of protection or services based on habitual
9 truancy from school ~~violates~~ has violated a condition specified under sub. (2) (b) 7.,
10 the court may order as a sanction any combination of the operating privilege
11 suspension specified in this paragraph and the dispositions specified in s. 938.342
12 (1) (b) to (f) and (1m), regardless of whether the disposition was imposed in the order
13 violated by the juvenile, if at the dispositional hearing under s. 938.335 the court
14 explained those conditions to the juvenile and informed the juvenile of the possible
15 sanctions under this paragraph for a violation or if before the violation the juvenile
16 has acknowledged in writing that he or she has read, or has had read to him or her,
17 those conditions and possible sanctions and that he or she understands those
18 conditions and possible sanctions. The court may order as a sanction suspension of
19 the juvenile's operating privilege, as defined under s. 340.01 (40), for not more than
20 one year. If the juvenile does not hold a valid operator's license under ch. 343, other
21 than an instruction permit under s. 343.07 or a restricted license under s. 343.08, on
22 the date of the order issued under this paragraph, the court may order the
23 suspension to begin on the date that the operator's license would otherwise be
24 reinstated or issued after the juvenile applies and qualifies for issuance or 2 years
25 after the date of the order issued under this paragraph, whichever occurs first. If the

1 court suspends an operating privilege under this paragraph, the court shall
2 immediately take possession of the suspended license and forward it to the
3 department of transportation with a notice stating the reason for and the duration
4 of the suspension.

5 **SECTION 103.** 938.357 (1) of the statutes, as created by 1995 Wisconsin Act 77,
6 is amended to read:

7 938.357 (1) The person or agency primarily responsible for implementing the
8 dispositional order or the district attorney may request a change in the placement
9 of the juvenile, whether or not the change requested is authorized in the dispositional
10 order and shall cause written notice to be sent to the juvenile or the juvenile's counsel
11 or guardian ad litem, parent, foster parent, treatment foster parent, guardian and
12 legal custodian. The notice shall contain the name and address of the new
13 placement, the reasons for the change in placement, a statement describing why the
14 new placement is preferable to the present placement and a statement of how the
15 new placement satisfies objectives of the treatment plan ordered by the court. Any
16 person receiving the notice under this subsection or notice of the specific foster or
17 treatment foster placement under s. 938.355 (2) (b) 2. may obtain a hearing on the
18 matter by filing an objection with the court within 10 days after receipt of the notice.
19 Placements shall not be changed until 10 days after such notice is sent to the court
20 unless the parent, guardian or legal custodian and the juvenile, if 12 or more years
21 of age, sign written waivers of objection, except that placement changes which were
22 authorized in the dispositional order may be made immediately if notice is given as
23 required in this subsection. In addition, a hearing is not required for placement
24 changes authorized in the dispositional order except where an objection filed by a
25 person who received notice alleges that new information is available which affects

1 the advisability of the court's dispositional order. If a hearing is held under this
2 subsection and the change in placement would remove a juvenile from a foster home
3 or treatment foster home, the foster parent or treatment foster parent may submit
4 a written statement prior to the hearing.

5 **SECTION 104.** 938.357 (3) of the statutes, as created by 1995 Wisconsin Act 77,
6 is amended to read:

7 938.357 (3) Subject to sub. (4) (b) and (c) and (5) (e), if the proposed change in
8 placement would involve placing a juvenile in a secured correctional facility or in a
9 secured child caring institution, notice shall be given as provided in sub. (1). A
10 hearing shall be held, unless waived by the juvenile, parent, guardian and legal
11 custodian, before the judge makes a decision on the request. The juvenile shall be
12 entitled to counsel at the hearing, and any party opposing or favoring the proposed
13 new placement may present relevant evidence and cross-examine witnesses. The
14 proposed new placement may be approved only if the judge finds, on the record, that
15 the conditions set forth in s. 938.34 (4m) have been met.

16 **SECTION 105.** 938.357 (4) (a) of the statutes, as created by 1995 Wisconsin Act
17 77, is amended to read:

18 938.357 (4) (a) When the juvenile is placed with the department, the
19 department may, after an examination under s. 938.50, place the juvenile in a
20 secured correctional facility or a secured child caring institution or on aftercare
21 supervision, either immediately or after a period of placement in a secured
22 correctional facility or a secured child caring institution. The department shall send
23 written notice of the change to the parent, guardian, legal custodian, county
24 department designated under s. 938.34 (4n), if any, and committing court. If the
25 department places a juvenile in a Type 2 secured correctional facility operated by a

1 child welfare agency, the department shall reimburse the child welfare agency at the
2 rate established under s. 46.037 that is applicable to the type of placement that the
3 child welfare agency is providing for the juvenile. A juvenile who is placed in a Type
4 2 secured correctional facility or a secured child caring institution remains under the
5 supervision of the department, remains subject to the rules and discipline of that
6 department and is considered to be in custody, as defined in s. 946.42 (1) (a).

7 **SECTION 106.** 938.357 (4) (b) and (c) of the statutes, as created by 1995
8 Wisconsin Act 77, are repealed and recreated to read:

9 938.357 (4) (b) 1. If a juvenile whom the department has placed in a Type 2
10 secured correctional facility operated by a child welfare agency violates a condition
11 of his or her placement in the Type 2 secured correctional facility, the child welfare
12 agency operating the Type 2 secured correctional facility shall notify the department
13 and the department, after consulting with the child welfare agency, may place the
14 juvenile in a Type 1 secured correctional facility under the supervision of the
15 department without a hearing under sub. (1).

16 2. If a juvenile whom the court has placed in a Type 2 child caring institution
17 under s. 938.34 (4d) violates a condition of his or her placement in the Type 2 child
18 caring institution, the child welfare agency operating the Type 2 child caring
19 institution shall notify the county department that has supervision over the juvenile
20 and, if the county department agrees to a change in placement under this
21 subdivision, the child welfare agency shall notify the department and the
22 department, after consulting with the child welfare agency, may place the juvenile
23 in a Type 1 secured correctional facility under the supervision of the department,
24 without a hearing under sub. (1), for not more than 10 days. If a juvenile is placed
25 in a Type 1 secured correctional facility under this subdivision, the county

1 department that has supervision over the juvenile shall reimburse the child welfare
2 agency operating the Type 2 child caring institution in which the juvenile was placed
3 at the rate established under s. 46.037, and that child welfare agency shall reimburse
4 the department at the rate specified in s. 301.26 (4) (d) 3m. or 4., whichever is
5 applicable, for the cost of the juvenile's care while placed in a Type 1 secured
6 correctional facility.

7 3. The child welfare agency operating the Type 2 secured correctional facility
8 or Type 2 child caring institution shall send written notice of a change in placement
9 under subd. 1. or 2. to the parent, guardian, legal custodian, county department and
10 committing court.

11 4. A juvenile may seek review of a decision of the department under subd. 1.
12 or 2. only by the common law writ of certiorari.

13 (c) 1. If a juvenile is placed in a Type 2 secured correctional facility operated
14 by a child welfare agency under par. (a) and it appears that a less restrictive
15 placement would be appropriate for the juvenile, the department, after consulting
16 with the child welfare agency that is operating the Type 2 secured correctional
17 facility in which the juvenile is placed, may place the juvenile in a less restrictive
18 placement, and may return the juvenile to the Type 2 secured correctional facility
19 without a hearing under sub. (1). The child welfare agency shall establish a rate for
20 each type of placement in the manner provided in s. 46.037.

21 2. If a juvenile is placed in a Type 2 child caring institution under s. 938.34 (4d)
22 and it appears that a less restrictive placement would be appropriate for the juvenile,
23 the child welfare agency operating the Type 2 child caring institution shall notify the
24 county department that has supervision over the juvenile and, if the county
25 department agrees to a change in placement under this subdivision, the child welfare

1 agency may place the juvenile in a less restrictive placement. A child welfare agency
2 may also, with the agreement of the county department that has supervision over a
3 juvenile who is placed in a less restrictive placement under this subdivision, return
4 the juvenile to the Type 2 child caring institution without a hearing under sub. (1).
5 The child welfare agency shall establish a rate for each type of placement in the
6 manner provided in s. 46.037.

7 3. The child welfare agency operating the Type 2 child caring institution shall
8 send written notice of a change in placement under subd. 1. or 2. to the parent,
9 guardian, legal custodian, county, department and committing court.

10 4. A juvenile may seek review of a decision of the department or county
11 department under subd. 1. or 2. only by the common law writ of certiorari.

12 **SECTION 107.** 938.365 (6) of the statutes, as created by 1995 Wisconsin Act 77,
13 is amended to read:

14 938.365 (6) If a request to extend a dispositional order is made prior to the
15 termination of the order, but the court is unable to conduct a hearing on the request
16 prior to the termination date, the court may extend the order for a period of not more
17 than 30 days, not including any period of delay resulting from any of the
18 circumstances specified in s. 938.315 (1). The court shall grant appropriate relief as
19 provided in s. 938.315 (3) with respect to any request to extend a dispositional order
20 on which a hearing is not held within the time limit specified in this subsection.
21 Failure to object if a hearing is not held within the time limit specified in this
22 subsection waives that time limit.

23 **SECTION 108.** 938.371 of the statutes, as created by 1995 Wisconsin Act 77, is
24 amended to read:

1 **938.371 Access to certain information by substitute care provider.**

2 (intro.) At the time of placement of a juvenile in a foster home, treatment foster
3 home, group home ~~or~~, child caring institution or secured correctional facility under
4 s. 938.183 (2), 938.34, 938.345 or 938.357, or, if the information specified in this
5 section is not available at that time, within 30 days after the date of the placement,
6 the agency that prepared the juvenile's permanency plan shall provide the foster
7 parent, treatment foster parent or operator of the group home ~~or~~, child caring
8 institution or secured correctional facility with any information contained in the
9 court report submitted under s. 938.33 or permanency plan submitted under s.
10 938.38, relating to any of the following:

11 **(1)** Results of a test or a series of tests of the juvenile to determine the presence
12 of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an
13 antibody to HIV, if the juvenile's parent or a temporary or permanent guardian
14 appointed by the court has consented to the test under s. 252.15 (2) (a) 4. b. and
15 release of the test results under s. 252.15 (5) (a) 19. and the agency directed to
16 prepare the permanency plan notifies the foster parent, treatment foster parent or
17 operator of the group home ~~or~~, child caring institution or secured correctional facility
18 of the confidentiality requirements under s. 252.15 (6).

19 **(2)** Results of any tests of the juvenile to determine the presence of viral
20 hepatitis, type B. The foster parent, treatment foster parent or operator of a group
21 home ~~or~~, child caring institution or secured correctional facility receiving
22 information under this subsection shall keep the information confidential.

23 **(3)** Findings or opinions of the court or agency that prepared the court report
24 or permanency plan relating to any mental, emotional, cognitive, developmental or
25 behavioral disability of the juvenile. The foster parent, treatment foster parent or

1 operator of a group home ~~or~~, child caring institution or secured correctional facility
2 receiving information under this subsection shall keep the information confidential.

3 **SECTION 109.** 938.38 (5m) of the statutes, as created by 1995 Wisconsin Act 77,
4 is repealed.

5 **SECTION 110.** 938.396 (1m) (am) of the statutes is created to read:

6 938.396 (1m) (am) If requested by a school district administrator of a public
7 school district, a law enforcement agency may provide to the school district
8 administrator any information in its records relating to the illegal possession by a
9 juvenile of a dangerous weapon, as defined in s. 939.22 (10).

10 **SECTION 111.** 938.396 (2) (am) of the statutes, as created by 1995 Wisconsin Act
11 77, is amended to read:

12 938.396 (2) (am) Upon the written permission of the parent, guardian or legal
13 custodian of a juvenile who is the subject of a record of a court specified in par. (a),
14 or upon request of the juvenile if 14 years of age or over, the court shall open for
15 inspection by the person named in the permission any records specifically identified
16 by the parent, guardian, legal custodian or juvenile in the written permission, unless
17 the court finds, after due notice and hearing, that inspection of those records by the
18 person named in the permission would result in imminent danger to the child.

19 **SECTION 112.** 938.396 (2m) (a) of the statutes, as created by 1995 Wisconsin Act
20 77, is amended to read:

21 938.396 (2m) (a) Notwithstanding sub. (2), upon request, a court shall open for
22 inspection by the requester the records of the court, other than reports under s.
23 938.295 or 938.33 or other records that deal with sensitive personal information of
24 the juvenile and the juvenile's family, relating to a juvenile who has been alleged to
25 be delinquent for committing a violation specified in s. ~~939.62 (2m) (a) 1., 2. or 3. or~~

1 a violation of s. 948.30 (1) or for conspiracy under s. 939.31 to commit any violation
2 938.34 (4h) (a). The requester may further disclose the information to anyone.

3 **SECTION 113.** 938.396 (7) (c) of the statutes, as created by 1995 Wisconsin Act
4 77, is amended to read:

5 938.396 (7) (c) No information from the juvenile's court records, other than
6 information disclosed under par. (a), (b) or (bm), may be disclosed to the school board
7 of the school district in which the juvenile is enrolled or the school board's designee
8 except by order of the court. Any information provided under this subsection to the
9 school board of the school district in which the juvenile is enrolled or the school
10 board's designee shall be disclosed by the school board or designee to employees of the
11 school district who work directly with the juvenile or who have been determined by
12 the school board or designee to have legitimate educational ~~or safety~~ interests,
13 including safety interests, in the information. A school district employe to whom
14 information is disclosed under this paragraph shall not further disclose the
15 information. A school board shall not use any information provided under this
16 subsection as the sole basis for expelling or suspending a juvenile. A school board
17 member or an employe of a school district may not be held personally liable for any
18 damages caused by the nondisclosure of any information specified in this paragraph
19 unless the member or employe acted with actual malice in failing to disclose the
20 information. A school district may not be held liable for any damages caused by the
21 nondisclosure of any information specified in this paragraph unless the school
22 district or its agent acted with gross negligence or with reckless, wanton or
23 intentional misconduct in failing to disclose the information.

24 **SECTION 114.** 938.396 (8) of the statutes, as created by 1995 Wisconsin Act 77,
25 is amended to read:

1 938.396 (8) Notwithstanding sub. (2), if a juvenile is adjudged delinquent for
2 an act that would be a felony if committed by an adult, the court clerk shall notify
3 the department of justice of that fact. No other information from the juvenile's court
4 records may be disclosed to the department of justice except by order of the court.
5 The department of justice may disclose any information provided under this
6 subsection only as part of a ~~criminal history~~ firearms restrictions record search
7 under s. 175.35 (2g) (c).

8 **SECTION 115.** 938.51 (1) (d) of the statutes is created to read:

9 938.51 (1) (d) Notify any witness who testified against the juvenile in any court
10 proceeding involving the delinquent act if all of the following apply:

- 11 1. The witness can be found.
- 12 2. The witness has sent in a request card under sub. (2).

13 **SECTION 116.** 938.51 (2) of the statutes, as created by 1995 Wisconsin Act 77,
14 is amended to read:

15 938.51 (2) The department shall design and prepare cards for ~~victims specified~~
16 ~~in sub. (1) (b) and (c)~~ any person specified in sub. (1) (b), (c) or (d) to send to the
17 department or county department having supervision over the juvenile. The cards
18 shall have space for ~~these persons~~ any such person to provide ~~their names and~~
19 ~~addresses~~ his or her name, telephone number and mailing address, the name of the
20 applicable juvenile and any other information that the department determines is
21 necessary. The department shall provide the cards, without charge, to district
22 attorneys. District attorneys shall provide the cards, without charge, to ~~victims~~
23 persons specified in sub. (1) (b) ~~and (c)~~ to (d). These persons may send completed
24 cards to the department or county department having supervision over the juvenile.

1 **SECTION 117.** 938.51 (4) of the statutes, as created by 1995 Wisconsin Act 77,
2 is renumbered 938.51 (4) (intro.) and amended to read:

3 938.51 (4) (intro.) If a juvenile escapes in violation of s. 946.42 (3), as soon as
4 possible after the department or county department having supervision over the
5 juvenile discovers that escape, that department or county department shall make a
6 reasonable effort to notify by telephone any all of the following persons:

7 (a) Any known victim of the act for which the juvenile was found delinquent,
8 if the criteria under sub. (1) (b) are met; an adult member of the victim's family, if the
9 victim died as a result of the juvenile's delinquent act and if the criteria under sub.
10 (1) (b) are met; or the victim's parent or guardian, if the victim is younger than 18
11 years old and if the criteria under sub. (1) (b) are met.

12 **SECTION 118.** 938.51 (4) (b) of the statutes is created to read:

13 938.51 (4) (b) Any witness who testified against the juvenile in any court
14 proceeding involving the delinquent act, if the criteria under sub. (1) (d) are met.

15 **SECTION 119.** 938.538 (5) (a) of the statutes, as created by 1995 Wisconsin Act
16 77, is amended to read:

17 938.538 (5) (a) ~~The parole commission juvenile offender review program in the~~
18 division of juvenile corrections in the department may grant release a participant
19 ~~parole under s. 304.06 to aftercare supervision under s. 301.03 (10) (d)~~ at any time
20 after the participant has completed 2 years of participation in the serious juvenile
21 offender program. ~~Parole~~ Aftercare supervision of the participant shall be provided
22 by the department.

23 **SECTION 120.** 938.539 of the statutes is created to read:

24 **938.539 Type 2 status.** (1) A juvenile who is placed in a Type 2 child caring
25 institution under s. 938.34 (4d) or who, having been so placed, is replaced in a less

1 restrictive placement under s. 938.357 (4) (c) is under the supervision and control of
2 the county department, is subject to the rules and discipline of the county
3 department and is considered to be in custody, as defined in s. 946.42 (1) (a).

4 (2) A juvenile who is placed in a Type 2 secured correctional facility under s.
5 938.357 (4) (a) or who, having been so placed, is replaced in a less restrictive
6 placement under s. 938.357 (4) (c) is under the supervision and control of the
7 department, is subject to the rules and discipline of the department and is considered
8 to be in custody, as defined in s. 946.42 (1) (a).

9 (3) Notwithstanding ss. 938.19 to 938.21, if a juvenile placed in a Type 2 child
10 caring institution under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 secured
11 correctional facility under s. 938.357 (4) (a) or (c) violates a condition of his or her
12 placement in the Type 2 child caring institution or Type 2 secured correctional
13 facility, the juvenile may be placed in a Type 1 secured correctional facility as
14 provided in s. 938.357 (4) (b).

15 (4) Any intentional failure of a juvenile placed in a Type 2 child caring
16 institution under s. 938.34 (4d) or 938.357 (4) (c) or in a Type 2 secured correctional
17 facility under s. 938.357 (4) (a) or (c) to remain within the extended limits of his or
18 her placement or to return within the time prescribed by the administrator of the
19 Type 2 child caring institution or Type 2 secured correctional facility is considered
20 an escape under s. 946.42 (3) (c).

21 (5) With respect to a juvenile who is placed in a child caring institution or a
22 secured child caring institution under s. 938.34 (4d) or 938.357 (4) (a) or in a less
23 restrictive placement under s. 938.357 (4) (c), the child welfare agency operating the
24 child caring institution or secured child caring institution in which the juvenile is
25 placed, and the person operating any less restrictive placement in which the juvenile

1 is placed, shall operate that child caring institution, secured child caring institution
2 or less restrictive placement as a Type 2 child caring institution or a Type 2 secured
3 correctional facility. This subsection does not preclude a child welfare agency or
4 other person from placing in a child caring institution, secured child caring
5 institution or less restrictive placement in which a juvenile is placed under s. 938.34
6 (4d) or 938.357 (4) (a) or (c) a juvenile who is not placed under s. 938.34 (4d) or 938.357
7 (4) (a) or (c).

8 (6) The department shall promulgate rules to implement this section.

9 **SECTION 121.** 938.59 (1) of the statutes, as created by 1995 Wisconsin Act 77,
10 is amended to read:

11 938.59 (1) The county department shall investigate the personal and family
12 history and environment of any juvenile transferred to its legal custody or placed
13 under its supervision under s. 938.34 (4d) or (4n) and make any physical or mental
14 examinations of the juvenile considered necessary to determine the type of care
15 necessary for the juvenile. The county department shall screen a juvenile who is
16 examined under this subsection to determine whether the juvenile is in need of
17 special treatment or care because of alcohol or other drug abuse, mental illness or
18 severe emotional disturbance. The county department shall keep a complete record
19 of the information received from the court, the date of reception, all available data
20 on the personal and family history of the juvenile, the results of all tests and
21 examinations given the juvenile and a complete history of all placements of the
22 juvenile while in the legal custody or under the supervision of the county
23 department.

24 **SECTION 122.** 938.595 of the statutes, as created by 1995 Wisconsin Act 77, is
25 amended to read:

938.595 Duration of control of county departments over delinquents.

Except as provided in s. 48.366, a juvenile who has been adjudged delinquent and placed under the supervision of a county department under s. 938.34 (4d) or (4n) shall be discharged as soon as the county department determines that there is a reasonable probability that it is no longer necessary either for the rehabilitation and treatment of the juvenile or for the protection of the public that the county department retain supervision.

SECTION 123. 938.78 (2) (ag) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.78 (2) (ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian or legal custodian of the juvenile who is the subject of the record or upon the request of the juvenile, if 14 years of age or over, to the parent, guardian, legal custodian or juvenile, unless the agency finds that inspection of those records by the juvenile, parent, guardian or legal custodian would result in imminent danger to the juvenile.

SECTION 124. 938.78 (2) (am) of the statutes, as created by 1995 Wisconsin Act 77, is amended to read:

938.78 (2) (am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian or legal custodian of the juvenile who is the subject of the record or upon the written permission of the juvenile, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian or juvenile specifically identifies the record in the written permission,

1 unless the agency determines that inspection of those records by the person named
2 in the permission would result in imminent danger to the juvenile.

3 **SECTION 125.** 938.78 (2) (d) (intro.) of the statutes, as created by 1995 Wisconsin
4 Act 77, is amended to read:

5 938.78 (2) (d) (intro.) Paragraph (a) does not prohibit the department of health
6 and social services or a county department from disclosing information about an
7 individual formerly in the legal custody or under the supervision of that department
8 under s. 48.34 (4m), 1993 stats., or formerly under the supervision of that
9 department or county department under s. 48.34 (4n), 1993 stats., or s. 938.34 (4d)
10 or (4n) to the department of corrections, if the individual is at the time of disclosure
11 any of the following:

12 **SECTION 126.** Subchapter XVIII (title) of chapter 938 [precedes 938.795] of the
13 statutes is created to read:

14 **CHAPTER 938**

15 **SUBCHAPTER XVIII**

16 **COMMUNITY SERVICES**

17 **SECTION 127.** Subchapter XX (title) of chapter 938 [precedes 938.983] of the
18 statutes is created to read:

19 **CHAPTER 938**

20 **SUBCHAPTER XX**

21 **MISCELLANEOUS PROVISIONS**

22 **SECTION 128.** 946.42 (1) (a) of the statutes, as affected by 1995 Wisconsin Act
23 77, section 639, and 1995 Wisconsin Act (Senate Bill 72), is repealed and recreated
24 to read:

1 946.42 (1) (a) "Custody" includes without limitation actual custody of an
2 institution, including a secured juvenile correctional facility, as defined in s. 938.02
3 (15m), a secured child caring institution, as defined in s. 938.02 (15g), a secure
4 detention facility, as defined in s. 938.02 (16), a Type 2 child caring institution, as
5 defined in s. 938.02 (19r), or a juvenile portion of a county jail, or of a peace officer
6 or institution guard and constructive custody of prisoners and juveniles subject to an
7 order under s. 48.366, 938.183, 938.34 (4d), (4h) or (4m) or 938.357 (4) or (5) (e)
8 temporarily outside the institution whether for the purpose of work, school, medical
9 care, a leave granted under s. 303.068, a temporary leave or furlough granted to a
10 juvenile or otherwise. Under s. 303.08 (6) it means, without limitation, that of the
11 sheriff of the county to which the prisoner was transferred after conviction. It does
12 not include the custody of a probationer or parolee by the department of corrections
13 or a probation or parole officer or the custody of a person who has been released to
14 aftercare supervision under ch. 938 unless the person is in actual custody or is
15 subject to a confinement order under s. 973.09 (4).

16 **SECTION 129.** 946.42 (3) (c) of the statutes, as affected by 1995 Wisconsin Act
17 77, is amended to read:

18 946.42 (3) (c) Subject to a disposition under s. 938.34 (4d), (4h) or (4m), to a
19 placement under s. 938.357 (4) or to aftercare revocation under s. 938.357 (5) (e).

20 **SECTION 130.** 946.44 (2) (c) of the statutes, as affected by 1995 Wisconsin Act
21 77, is amended to read:

22 946.44 (2) (c) "Institution" includes a secured juvenile correctional facility ~~and,~~
23 as defined in s. 938.02 (15m), a secured child caring institution, as defined in s.
24 938.02 (15g), and a Type 2 child caring institution, as defined in s. 938.02 (19r).

1 **SECTION 131.** 946.44 (2) (d) of the statutes, as affected by 1995 Wisconsin Act
2 77, is amended to read:

3 946.44 (2) (d) "Prisoner" includes a person who is under the supervision of the
4 department of corrections under s. 938.34 (4h) or placed in a secured correctional
5 facility or secured child caring institution under s. 938.34 (4m) or 938.357 (4) or (5)
6 (e) or placed in a Type 2 child caring institution under s. 938.34 (4d) or who is subject
7 to an order under s. 48.366.

8 **SECTION 132.** 946.45 (2) (c) of the statutes, as affected by 1995 Wisconsin Act
9 77, is amended to read:

10 946.45 (2) (c) "Institution" includes a secured juvenile correctional facility and,
11 as defined in s. 938.02 (15m), a secured child caring institution, as defined in s.
12 938.02 (15g), and a Type 2 child caring institution, as defined in s. 938.02 (19r).

13 **SECTION 133.** 946.45 (2) (d) of the statutes, as affected by 1995 Wisconsin Act
14 77, is amended to read:

15 946.45 (2) (d) "Prisoner" includes a person who is under the supervision of the
16 department of corrections under s. 938.34 (4h) or placed in a secured correctional
17 facility or secured child caring institution under s. 938.34 (4m) or 938.357 (4) or (5)
18 (e) or placed in a Type 2 child caring institution under s. 938.34 (4d) or who is subject
19 to an order under s. 48.366.

20 **SECTION 134.** 970.032 (2) (intro.) of the statutes, as affected by 1995 Wisconsin
21 Act 77, is amended to read:

22 970.032 (2) (intro.) If the court finds probable cause as specified in sub. (1), the
23 court shall determine whether to retain jurisdiction or to transfer jurisdiction to the
24 court assigned to exercise jurisdiction under chs. 48 and 938. The court shall retain

1 jurisdiction unless the court finds child proves by a preponderance of the evidence
2 all of the following:

3 **SECTION 135. Nonstatutory provisions; corrections.**

4 (1) RULE-MAKING DEADLINE. The department of corrections shall submit the
5 proposed rules required under sections 938.22 (2) (a), 938.357 (5) (g), 938.38 (6),
6 938.48 (13), 938.533 (2), 938.534 (2), 938.538 (7) and 938.78 (3) of the statutes, as
7 created by 1995 Wisconsin Act 77, section 938.539 (6) of the statutes, as created by
8 this act, and section 938.993 of the statutes, as affected by 1995 Wisconsin Act 77 to
9 the legislative council staff for review under section 227.15 (1) of the statutes by no
10 later than July 1, 1997.

11 (2) RULE-MAKING EXCEPTION. Before July 1, 1997, the department of corrections
12 shall administer section 301.02 of the statutes, section 301.03 (9) of the statutes, as
13 affected by 1995 Wisconsin Act 77, section 301.03 (9r) of the statutes, as created by
14 1995 Wisconsin Act 77, section 301.03 (10) of the statutes, as affected by 1995
15 Wisconsin Acts 27 and 77, and chapter 938 of the statutes, as created by 1995
16 Wisconsin Act 77, according to policies and procedures established by that
17 department, but not promulgated as rules, notwithstanding the absence of rules to
18 administer those sections and that chapter.

19 **SECTION 136. Effective date.**

20 (1) This act takes effect on July 1, 1996, or on the day after publication,
21 whichever is later.

22 (END)